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Pandrea v. Barrett Clerk's Record v. 1 Dckt. 42333

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IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

Supreme Court Docket #42333-2014
Bonner County CV2011-0835

MARY E. PANDREA,

Plaintiff / Counter Defendant / Appellant

vs.

**KENNETH J. BARRETT and
DEANNA L. BARRETT,**

Defendant / Counter Claimant / Respondent.

CLERK'S RECORD ON APPEAL

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Bonner.*

Mary E. Pandrea
Pro Se

Pro Se for Appellant

Richard K. Kuck
Attorney at Law

Attorney for Respondent



VOLUME I

ORIGINAL

42333

IN THE SUPREME COURT OF THE
STATE OF IDAHO

MARY E. PANDREA,

Plaintiff / Appellant,

v.

KENNETH J. BARRETT and
DEANNA L. BARRETT,

Defendant / Respondent.

SUPREME COURT NO. 42333-2014
BONNER COUNTY CASE CV2011-0835

Appeal from the First Judicial District, Bonner County, Idaho

HONORABLE JOHN PATRICK LUSTER, presiding,

Mary E. Pandrea, Pro Se, 4687 Upper Pack River Road, Sandpoint, Idaho, 83864

Richard K. Kuck, Attorney at Law, P.O. Box 1320, Coeur d'Alene, Idaho 83816-1320

RECEIVED
IDAHO SUPREME COURT
CLERK OF APPEALS
JAN 17 2014

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA,)	
)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
)	
v.	)	CLERK'S RECORD ON APPEAL
)	
KENNETH J. BARRETT and)	
DEANNA L. BARRETT,)	
)	
Defendant / Respondent.)	
_____)	

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in and
for the County of Bonner.

HONORABLE JOHN PATRICK LUSTER
District Judge

MARY E. PANDREA
PRO SE
4687 UPPER PACK RIVER ROAD
SANDPOINT, ID 83864

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ATTORNEY FOR RESPONDENT

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Notice of Transcript Lodge filed November 3, 2014	Vol. V – p. 967
Notice of Transcript Lodged filed October 10, 2014	Vol. V – p. 964
Notice of Transcript Lodged filed October 29, 2014	Vol. V – p. 965
Notice of Transcript Preparation filed December 11, 2012	Vol. II – p. 303
Notice of Unavailability filed December 3, 2013	Vol. III – p. 581
Objection to Clark's Motion for Entry of Final Judgment filed January 3, 2014	Vol. III – p. 589
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Order Conditionally Dismissing Appeal for a Final Judgment filed July 24, 2014	Vol. V – p. 934
Order Denying Defendant’s Motion to Continue Trial filed May 1, 2012	Vol. I – p. 162
Order Denying John F. Thornton’s Motion to Intervene and Motion for Stay signed January 17, 2014 and filed March 10, 2014	Vol. V – p. 843
Order Denying Plaintiff’s Re-Filed Motion to Reconsider filed November 6, 2013	Vol. III – p. 571
Order Dismissing Appeal filed April 25, 2014	Vol. V – p. 870
Order Granting Motion for Leave to Withdraw as Attorney of Record filed March 28, 2013	Vol. II – p. 340
Order of Reassignment filed July 12, 2011	Vol. I – p. 79
Order of Reassignment filed May 20, 2011	Vol. I – p. 54
Order Re: Fee Waiver filed July 14, 2014	Vol. V – p. 923
Order to Amend Complaint filed October 12, 2011	Vol. I – p. 93
Order to Amend Complaint filed October 6, 2011	Vol. I – p. 91
Order to Amend Complaint filed September 23, 2011	Vol. I – p. 82
Order to Disqualify Judge filed July 5, 2011	Vol. I – p. 77
Order to Disqualify Judge filed May 20, 2011	Vol. I – p. 52
Order to Reinstate Appellate Proceedings filed October 9, 2014	Vol. V – p. 961
Pandrea’s Affidavit for Costs and Attorney Fees filed Feb. 7, 2014	Vol. IV – p. 757
Pandrea’s Motion to Void Judgment filed May 8, 2014	Vol. V – p. 903

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Plaintiff Mary Pandrea's Motion for Leave to File the Second Amended Complaint and to Add Defendant's filed August 30, 2013	Vol. III – p. 522
Plaintiff Mary Pandrea's Response to Clark's Objection to Exhibit and Request for Judicial Notice filed May 29, 2014	Vol. V – p. 910
Plaintiff's Exhibit List filed May 17, 2012	Vol. I – p. 176
Plaintiff's Memorandum in Support of Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification filed Feb. 7, 2014	Vol. IV – p. 761
Plaintiff's Memorandum of Costs and Attorney Fees filed February 7, 2014	Vol. IV – p. 743
Plaintiff's Motion for Attorney Fees and Costs filed Feb. 7, 2014	Vol. IV – p. 740
Plaintiff's Motion for Reconsideration of Final Judgment and decree of Partition and Clarification filed February 7, 2014	Vol. IV – p. 720
Plaintiff's Motion for Reconsideration of Trial Decision filed Mar. 6, 2013	Vol. II – p. 327
Plaintiff's Notice of Intent to Withdraw and Re-File Prior Pro Se Filings filed April 26, 2013	Vol. II – p. 359
Plaintiff's Objection to Defendant's Motion to Continue Hearing on Plaintiff's Motion for Reconsideration filed June 24, 2013	Vol. III – p. 478
Plaintiff's Opposition to Defendant's Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate Sanctions filed April 26, 2013	Vol. II – p. 362
Plaintiff's Re-Filed Motion for Reconsideration of Trial Decision (Without Argument) filed April 26, 2013	Vol. II – p. 353
Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision filed June 24, 2013	Vol. III – p. 475
Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of Law filed June 17, 2013	Vol. III – p. 463
Plaintiff's Response to Defendant's Objection and Reply in Support of Motion for Leave to Amend Complaint and Add Defendant's filed Oct. 16, 2013	Vol. III – p. 556

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Plaintiff's Second Supplemental Exhibit List filed May 22, 2012.....	Vol. I – p. 186
Plaintiff's Supplemental Exhibit List filed May 18, 2012	Vol. I – p. 181
Plaintiff's Third Supplemental Exhibit List filed May 31, 2012	Vol. II – p. 261
Plaintiff's Trial Brief filed May 24, 2012	Vol. I – p. 191
Plaintiff's Witness List filed May 17, 2012	Vol. I – p. 174
Pre-Hearing Memorandum in Support of Plaintiff's Position Regarding Entry of Final Judgment filed January 13, 2014	Vol. IV – p. 684
Re-File Declaration of Pandrea filed April 26, 2013	Vol. II – p. 356
Remittitur filed May 22, 2014	Vol. V – p. 909
Remittitur filed May 30, 2014	Vol. V – p. 918
Reply to Counterclaim filed November 15, 2011	Vol. I – p. 108
Respondent's Request for Additional Transcript filed July 24, 2014	Vol. V – p. 936
Response to Second Order Conditionally Dismissing appeal Re: Final Judgment filed September 15, 2014	Vol. V – p. 953
Revised Judgment and Decree of Partition filed Jan. 24, 2014	Vol. IV – p. 713
ROAs	Vol. I – p. 21, Vol. II – p. 220, Vol. III – p. 423, Vol. IV – p. 631 and Vol. V – p. 821
Second Affidavit of Service of Order Granting Motion for Leave to Withdraw as Attorney of Record filed April 17, 2013	Vol. II – p. 349
Second Order Conditionally Dismissing Appeal Re: Final Judgment filed September 2, 2014	Vol. V – p. 945
Statement dated 9/29/2014 for transcripts filed Oct. 10, 2014	Vol. V – p. 963
Stipulation for Enlargement of Time to Take Depositions of Parties and Witnesses filed May 9, 2012	Vol. I – p. 171
Stipulation for Filing of Amended Complaint filed Sept. 7, 2011	Vol. I – p. 80

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Stipulation for Order to Allow Withdrawal as Attorney of Record filed March 13, 2013	Vol. II – p. 332
Summons filed May 12, 2011	Vol. I – p. 45
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Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/11/2011	NCOC	PHILLIPS	New Case Filed - Other Claims
	APER	PHILLIPS	Plaintiff: Pandrea, Mary Appearance Douglas S. Marfice
		PHILLIPS	Filing: A - All initial civil case filings of any type not listed in categories B-H, or the other A listings below Paid by: Ramsden & Lyons Receipt number: 0456705 Dated: 5/12/2011 Amount: \$88.00 (Check) For: Pandrea, Mary (plaintiff)
	COMP	PHILLIPS	Complaint Filed - Complaint for Partition and Accounting
5/12/2011	SMIS	PHILLIPS	Summons Issued
5/13/2011		KELSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0456761 Dated: 5/13/2011 Amount: \$16.00 (Check)
5/19/2011		PHILLIPS	Miscellaneous Payment: For Comparing And Conforming A Prepared Record, Per Page Paid by: Ramsden & Lyons Receipt number: 0456994 Dated: 5/19/2011 Amount: \$2.00 (Check)
		PHILLIPS	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Ramsden & Lyons Receipt number: 0456994 Dated: 5/19/2011 Amount: \$1.00 (Check)
	MISC	PHILLIPS	Lis Pendens filed
	MODQ	PHILLIPS	Motion To Disqualify
5/20/2011	DISA	PHILLIPS	Disqualification Of Judge - Automatic
	ORDR	PHILLIPS	Order to Disqualify Judge
	CHJG	PHILLIPS	Change Assigned Judge
	ORDR	PHILLIPS	Order of Reassignment
	CHJG	PHILLIPS	Change Assigned Judge
6/7/2011	AFSV	OPPELT	Affidavit Of Service
6/20/2011		BOWERS	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Clark, Kari (defendant) Receipt number: 0458688 Dated: 6/20/2011 Amount: \$58.00 (Check) For: Clark, Kari (defendant)
	NOTC	PHILLIPS	Notice of Appearance
	APER	PHILLIPS	Defendant: Clark, Kari Appearance Pro Se
	MODQ	PHILLIPS	Motion To Disqualify Judge
6/22/2011	NOTC	OPPELT	Notice of Intent to Take Default
	FIOC	OPPELT	File Out Of County - Judge Simpson
6/24/2011	ANSW	PHILLIPS	Answer to Complaint for Partition and Accounting
6/28/2011	MISC	PHILLIPS	Exhibit A to Complaint filed - omitted from original filing

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/29/2011	ANSW	PHILLIPS	Answer to Complaint for Partition and Accounting (filed by Shirley Bade for Defendant) - no Sub of Counsel filed Benjamin R. Simpson
7/5/2011	FIRT	PHILLIPS	File Returned Benjamin R. Simpson
	ORDR	PHILLIPS	Order to Disqualify Judge Benjamin R. Simpson
	DISA	PHILLIPS	Disqualification Of Judge - Automatic Benjamin R. Simpson
	CHJG	PHILLIPS	Change Assigned Judge District Court Clerks
7/12/2011	ORDR	PHILLIPS	Order of Reassignment John T. Mitchell
	CHJG	PHILLIPS	Change Assigned Judge John Patrick Luster
7/20/2011	FIOC	OPPELT	File Out Of County - Judge Simpson John Patrick Luster
3/31/2011	HRSC	CMOORE	Hearing Scheduled (Status Conference 10/24/2011 03:00 PM) (to be heard in Kootenai County) John Patrick Luster
		CMOORE	Notice of Hearing John Patrick Luster
3/7/2011	STIP	MORELAND	Stipulation for Filing of Amended Complaint (no order provided) John Patrick Luster
3/19/2011		PHILLIPS	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Pandrea Receipt number: 0463161 Dated: 9/19/2011 Amount: \$2.00 (Check) John Patrick Luster
3/21/2011	MISC	PHILLIPS	faxed proposed order and proposed amended complaint to Judge Simpson John Patrick Luster
3/23/2011	ORDR	PHILLIPS	Order to Amend Complaint Benjamin R. Simpson
10/3/2011	AMCO	PHILLIPS	Amended Complaint Filed (nunc pro tunc) John Patrick Luster
10/6/2011	ORDR	PHILLIPS	Order to Amend Complaint (nunc pro tunc) John Patrick Luster
10/12/2011	ORDR	HENDRICKSO	Order to Amend Complaint John Patrick Luster
10/13/2011	MISC	HENDRICKSO	Acknowledgment Pursuant to Rule 16(k)(7) IRCP Regarding Case Status/ Mediation John Patrick Luster
10/19/2011	FIOC	HENDRICKSO	File Out Of County John Patrick Luster
	ANSW	HENDRICKSO	Answer to Amended Complaint for Partition and Accounting and John Patrick Luster
	CNTR	HENDRICKSO	Counterclaim John Patrick Luster
10/24/2011	CTLG	OPPELT	Court Log- From Kootenai County John Patrick Luster
	DCHH	OPPELT	Hearing result for Status Conference scheduled on 10/24/2011 03:00 PM: District Court Hearing Held Court Reporter: Anne MacManus Brownell Number of Transcript Pages for this hearing estimated: (to be heard in Kootenai County) - Less Than 100 Pages John Patrick Luster
10/27/2011	FIRT	OPPELT	File Returned John Patrick Luster
11/2/2011	HRSC	OPPELT	Hearing Scheduled (Court Trial - 2 Days 05/30/2012 09:00 AM) John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
11/2/2011		OPPELT	Notice Of Trial (Uniform Pretrial Order Attached) John Patrick Luster
11/8/2011		BOWERS	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Pandrea, Mary Receipt number: 0465379 Dated: 11/8/2011 Amount: \$8.00 (Check) John Patrick Luster
11/14/2011	REQU	HENDRICKSO	Defendat/Counterclaimant's Requests For Admissions, Answers to Interrogatories, and Production of Documents to Plaintiff/Counter Defendant MArY E. Pandrea, Set One John Patrick Luster
11/15/2011	REPL	HENDRICKSO	Reply to Counterclaim John Patrick Luster
11/16/2011	NOSV	HENDRICKSO	Defendant/Counterclaimant's Notice of Service of Request For Admissions, Answers to Interrogatories, and Production of Documents, Set one Upon Plaintiff/Counterdefendant Mar E. Pandrea John Patrick Luster
12/13/2011	NOSV	HENDRICKSO	Notice of Service John Patrick Luster
12/29/2011	NOSV	HENDRICKSO	Notice of Service of Discovery Responses John Patrick Luster
12/30/2011	NOSV	HENDRICKSO	Notice of Service of Discovery Requests John Patrick Luster
1/4/2012	NOTC	HENDRICKSO	Notice of Compliance - (expert witnesses) T. Smet John Patrick Luster
1/30/2012	NOTC	OPPELT	Notice of Compliance John Patrick Luster
2/7/2012	NOSV	OPPELT	Notice Of Service of Defendant/Counterclaimants' Response to Plaintiff/Counter Defendant's First Set of Interrogatories and Requests for Production of Documents John Patrick Luster
2/10/2012		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Receipt number: 0469328 Dated: 2/10/2012 Amount: \$3.00 (Cash) John Patrick Luster
3/5/2012	NOTC	HENDRICKSO	Notice of Compliance with Pretrial Order re: Defendant/Counterclaimants' Expert Witness Disclosure John Patrick Luster
4/4/2012	NOHG	HENDRICKSO	Notice of Hearing of Defendant/Counter Claimant's Motion to Continue Trial John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Continue 04/25/2012 04:00 PM) Defendant/Counter Claimant's Motion to Continue Trial John Patrick Luster
4/11/2012	MOTN	HENDRICKSO	Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Ethel M. Boyd in Support of Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Kari A. Clark in Support of Defenan/Counterclaimant's Motion To Continue Trial John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
4/11/2012	AFFD	HENDRICKSO	Affidait of Shirley Bade in Support of Defendant/Counterclaimant's Motin To Continue Trial	John Patrick Luster
4/19/2012	FIOC	OPPELT	File Out Of County - Judge Luster	John Patrick Luster
4/25/2012	CTLG	OPPELT	Court Log- From Kootenai County - No CD	John Patrick Luster
	DCHH	OPPELT	Hearing result for Motion to Continue scheduled on 04/25/2012 04:00 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: Defendant/Counter Claimant's Motion to Continue Trial - Kootenai County - Less Than 100 Pages	John Patrick Luster
	DENY	OPPELT	Hearing result for Motion to Continue scheduled on 04/25/2012 04:00 PM: Motion Denied Defendant/Counter Claimant's Motion to Continue Trial - Kootenai County	John Patrick Luster
5/1/2012	ORDR	HENDRICKSO	Order Denying Defendant's Motion To Continue Trial	John Patrick Luster
5/4/2012	FIRT	OPPELT	File Returned	John Patrick Luster
	NOTD	OPPELT	Notice Of Deposition of Plaintiff/Counter Defendant Mary E. Pandrea	John Patrick Luster
5/9/2012	NOSV	HENDRICKSO	Notice of Service of Discovery Responses	John Patrick Luster
	NOTC	HENDRICKSO	Notice of Compliance	John Patrick Luster
	STIP	HENDRICKSO	Stipulation for Enlargement of Time to Take Depositions of Parties and Witnesses	John Patrick Luster
5/17/2012	FIOC	OPPELT	File Out Of County - Judge Luster	John Patrick Luster
	WITN	HENDRICKSO	Plaintiff's Witness List	John Patrick Luster
	EXHB	HENDRICKSO	Plaintiff's Exhibit List	John Patrick Luster
5/18/2012	EXHB	HENDRICKSO	Plaintiff's Supplemental Exhibit List	John Patrick Luster
5/22/2012	EXHB	HENDRICKSO	Plaintiff's Second Supplemental Exhibit List	John Patrick Luster
5/24/2012	BREF	HENDRICKSO	Plaintiff's Trial Brief	John Patrick Luster
5/25/2012	BREF	HENDRICKSO	Defendant's Trial Brief	John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Court Trial - 2 Days scheduled on 05/30/2012 09:00 AM: Hearing Vacated	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Court Trial - 2 Days 06/12/2012 09:00 AM) to be held in Kootenai County	John Patrick Luster
		HENDRICKSO	Notice Of Court Trial	John Patrick Luster
5/31/2012	EXHB	HENDRICKSO	Plaintiff's Third Supplemental Exhibit List	John Patrick Luster
3/6/2012	NOTC	HENDRICKSO	Notice of Taking Deposition of Suzanne Metzger	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/13/2012	DCHH	HENDRICKSO	Hearing result for Court Trial - 2 Days scheduled on 06/12/2012 09:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to be held in Kootenai County
3/14/2012	MINE	HENDRICKSO	Minute Entry re: closing briefs
	MISC	HENDRICKSO	*****END OF FILE #1*****BEGIN FILE #2*****
7/18/2012	BREF	OPPELT	Plaintiff's Post-Trial Brief
7/19/2012	BREF	OPPELT	Defendant's Post-Trial Brief and Closing Argument
3/16/2012	HRSC	HENDRICKSO	Hearing Scheduled (Status Conference 11/21/2012 03:00 PM) to be held in Kootenai County
		HENDRICKSO	Notice Of Hearing
		HENDRICKSO	Decision re: Court Trial
3/17/2012	MISC	HENDRICKSO	Document faxed to Judge - Notice of Hearing
11/20/2012	OBJC	OPPELT	Defendant's Objection to Proposed Judgment and Decree of Partition and Request for Hearing
11/21/2012	DCHH	OPPELT	Hearing result for Status Conference scheduled on 11/21/2012 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: to be held in Kootenai County - Under 100 Pages
11/30/2012	HRSC	OPPELT	Hearing Scheduled (Motion 01/14/2013 03:00 PM) to Clarify Survey
		OPPELT	Notice Of Hearing
12/11/2012	NOTC	HENDRICKSO	Notice of Transcript Preparation
1/10/2013	AFFD	HENDRICKSO	Affidavit of John Marquette in Support of Plaintiff's Proposed Judgment
	AFFD	HENDRICKSO	Affidavit of Mary E. Pandrea In Support of Plaintiff's Proposed Judgment
1/14/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/14/2013 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: to Clarify Survey (In Kootenai County)
1/15/2013	MISC	HENDRICKSO	Decision on Defendant's Objection to Proposed Judgment
2/5/2013	NSSC	OPPELT	Notice Of Substitution Of Counsel
	APER	OPPELT	Defendant: Clark, Kari Appearance Richard Keating Kuck
3/5/2013	NOAP	MORELAND	Notice Of Appearance

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
3/5/2013	APER	MORELAND	Plaintiff: Pandrea, Mary Appearance Pro Se	John Patrick Luster
	MISC	MORELAND	Declaration of Pandrea	John Patrick Luster
	OBJC	MORELAND	Plaintiff Mary Pandrea's Objection to Ruling Based on Clouded Title & Defendant's Failure to Provide a True & Accurate Accounting	John Patrick Luster
	MISC	HENDRICKSO	*****END OF FILE #2*****BEGIN FILE #3*****	John Patrick Luster
3/6/2013	MOTN	HENDRICKSO	Plaintiff's Motion for Recosideration of Trial Decision	John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Motion for Reconsideration of Trial Decision	John Patrick Luster
	MISC	HENDRICKSO	****END OF FILE #3*****BEGIN FILE #4*****	John Patrick Luster
3/13/2013	MOTN	HENDRICKSO	Motion for Leave to Withdraw as Attorney of Record - Attorney D. Marfice	John Patrick Luster
	STIP	HENDRICKSO	Stipulation for Order to Allow Withdrawal as Attorney of Record	John Patrick Luster
	NOHG	HENDRICKSO	Notice of Hearing	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Withdraw 03/28/2013 03:00 PM) Kootenai County	John Patrick Luster
3/14/2013	CINF	HENDRICKSO	Documents faxed to Judge Luster	John Patrick Luster
3/22/2013		KRAMES	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0487907 Dated: 3/22/2013 Amount: \$32.00 (Check)	John Patrick Luster
3/28/2013	MOTN	HENDRICKSO	Defendant's Moton to Strike Plaintiff's Pro-Se Pleadings and Request for Appropriate Sanctions	John Patrick Luster
	CINF	HENDRICKSO	Document faxed to Judge Luster	John Patrick Luster
	ORDR	HENDRICKSO	Order Granting Motion for Leave to Withdraw as Attorney of Record	John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion to Withdraw scheduled on 03/28/2013 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County	John Patrick Luster
	GRNT	HENDRICKSO	Hearing result for Motion to Withdraw scheduled on 03/28/2013 03:00 PM: Motion Granted Kootenai County	John Patrick Luster
4/1/2013	FIRT	HENDRICKSO	File Returned	John Patrick Luster
4/4/2013	AFFD	JACKSON	Affidavit of Service of Order Granting Motion for Leave to Withdraw as Attorney of Record	John Patrick Luster
4/5/2013		HUMRICH	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Pandrea, Mary Receipt number: 0488546 Dated: 4/5/2013 Amount: \$2.00 (Cash)	John Patrick Luster
4/8/2013	NOAP	JACKSON	Notice Of Appearance (by Mary E. Pandrea)	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
4/17/2013	AFSV	HENDRICKSO	Second Affidavit of Service of Order Granting Motion For Leave to Withdraw as Attorney of Record	John Patrick Luster
4/26/2013	MOTN	HENDRICKSO	Plaintiff Re-Filed Motion for Reconsideration of Trial Decision (Without Argument)	John Patrick Luster
	MISC	HENDRICKSO	Re-Filed Declaration of Pandrea	John Patrick Luster
	OBJC	HENDRICKSO	Plaintiff Mary Pandrea's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	John Patrick Luster
	NOTC	HENDRICKSO	Plaintiff's Notice of Intent to Withdraw and Re-File Prior Pro Se Filing	John Patrick Luster
	MISC	HENDRICKSO	Plaintiff's Opposition to Defendant's Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate Sanctions	John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Re-filed Motion for Reconsideration of Trial Decision (Without Argument)	John Patrick Luster
	MISC	HENDRICKSO	*****END OF FILE #4*****BEGIN OF FILE #5*****	John Patrick Luster
5/7/2013	NOHG	HENDRICKSO	Notice Of Hearing - Plaintiff's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Hearing Scheduled 06/19/2013 03:00 PM) Plaintiff's Re-Filed Objection Kootenai County	John Patrick Luster
	NOHG	HENDRICKSO	Notice Of Hearing Plaintiff's Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/19/2013 03:00 PM) Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
5/30/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Hearing Scheduled scheduled on 06/19/2013 03:00 PM: Hearing Vacated and will be rescheduled Plaintiff's Re-Filed Objection Kootenai County	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/13/2013 09:30 AM) Kootenai County re: Re-Filed Objection	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
5/30/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Motion scheduled on 06/19/2013 03:00 PM: Hearing Vacated to be rescheduled Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/13/2013 09:30 AM) Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
5/31/2013	FIOC	HENDRICKSO	File Out Of County	John Patrick Luster
5/4/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	CONT	HENDRICKSO	Continued (Motion 06/14/2013 09:40 AM) Kootenai County re: Re-Filed Objection	John Patrick Luster
	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	CONT	HENDRICKSO	Continued (Motion 06/14/2013 09:40 AM) Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
3/11/2013	AFFD	HENDRICKSO	Affidvit of John Marquette	John Patrick Luster
3/12/2013	AFFD	HENDRICKSO	Affidavit of John Pandrea In Support of Plaintiff Mary E. Pandrea's Re-Filed Motion for Reconsideration	John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Debbie A. Gadbow in Support of Mary Pandrea's Re-Filed Motion for Reconsideration of Trial Decision (Wlthout Argument)	John Patrick Luster
	NOFG	HENDRICKSO	Notice of Filing of Record of Survey and Legals	John Patrick Luster
	MOTN	HENDRICKSO	Defendant's Motion to Amend Findings of Fact and Conclusions of Law	John Patrick Luster
	NOHG	HENDRICKSO	Notice of Hearing re: Defendant's Motion to Amend Findings of Fact and Conclusions of Law	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/14/2013 09:40 AM) Defendant's Motion to Amend Findings of Fact and Conclusions of Law	John Patrick Luster
	RSPN	HENDRICKSO	Defendant Clark's Response to Plaintiff's Motion for Reconsideration	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
6/14/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County re: Re-Filed Objection John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Defendant's Motion to Amend Findings of Fact and Conclusions of Law John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County John Patrick Luster
6/17/2013	RSPN	HENDRICKSO	Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of Law John Patrick Luster
	NOHG	HENDRICKSO	Notice Of Hearing John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/26/2013 01:30 PM) Kootenai County John Patrick Luster
6/20/2013	NOHG	HENDRICKSO	Notice Of Hearing re: Motion to Continue John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Continue 06/26/2013 01:30 PM) John Patrick Luster
	MOTN	HENDRICKSO	Motion to Continue Hearing on Plaintiff's Motion for Reconsideration John Patrick Luster
6/24/2013	REPL	HENDRICKSO	Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision John Patrick Luster
	OBJC	HENDRICKSO	Plaintiff's Objection to Defendant's Motion to Continue Hearing on Plaintiff's Motion for Reconsideration John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Reply to Support Her Motion for Reconsideration of Trial Decision John Patrick Luster
6/26/2013	DCHH	HENDRICKSO	Hearing result for Motion to Continue scheduled on 06/26/2013 01:30 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
6/26/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/26/2013 01:30 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: Kootenai County
	DENY	HENDRICKSO	Hearing result for Motion scheduled on 06/26/2013 01:30 PM: Motion to Reconsider on the Accounting Denied Kootenai County
8/3/2013	NOHG	HENDRICKSO	Notice of Hearing re: Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants
8/14/2013	MOTN	HENDRICKSO	Motion to Intervene and for Stay
	APER	HENDRICKSO	Other party: Thornton, John F Appearance Valerie Thornton
		HENDRICKSO	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Thorton Law Office Receipt number: 0495569 Dated: 8/20/2013 Amount: \$66.00 (Check) For: Thornton, John F (other party)
	CINF	HENDRICKSO	Document sent to Judge for review also, no notice of hearing or order To intervene filed at the time of the above motion
8/30/2013	MOTN	HENDRICKSO	Plaintiff Mary Pandrea's Motion for Leave to File The Second Amended Complaint and to Add Defendants
	AFFD	HENDRICKSO	Affidavit of Mary Pandrea in Support of Mary Pandrea's Motion for Leave to File Second Amended Complaint and to Add Defendants
	MEMO	HENDRICKSO	Memorandum in Support of Motion for Leave to File Second Amended Complaint and to Add Defendants
	COMP	HENDRICKSO	Plaintiff Mary Pandrea's Second Amended Complaint and to Add Defendants [PROPOSAL]
9/3/2013	HRSC	HENDRICKSO	Hearing Scheduled (Motion 09/27/2013 10:00 AM) Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants
9/30/2013	CONT	HENDRICKSO	Hearing result for Motion scheduled on 09/27/2013 10:00 AM: Continued Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants - Per District continued to October 25, 2013 1:00pm
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 10/25/2013 01:00 PM) Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
		HENDRICKSO	Notice Of Hearing

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
10/2/2013	MISC	HENDRICKSO	Per email from Kathy (Judge Luster's Clerk) the Plaintiff's Motion to Amend Complaint will be heard on October 18, 2013 at 1:00pm in Kootenai County
	CONT	HENDRICKSO	Continued (Motion 10/18/2013 01:00 PM) All Motion previously scheduled Sept 27 Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
10/3/2013		HENDRICKSO	Notice Of Hearing
10/4/2013	NOHG	HENDRICKSO	Notice of Hearing re" John Thornton's Motion to Intervene
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Intervene 10/18/2013 01:00 PM) Kootenai County J. Thornton Intervenor
10/15/2013	OBJC	HENDRICKSO	Defendant's Clark's Objectin to Plaintiff's Motion for Leave to File Second Amended Complaint and to Add Additional Defendants
	MISC	HENDRICKSO	Defendant's Kari Clark's Opposition to John F. Thornton's Motion to Intervene and Motion For Stay
10/16/2013	NOTC	HENDRICKSO	Notice of Evidence and Argument
	RSPN	HENDRICKSO	Plaintiff's Response to Defendant's Objection and Reply in Support of Motion for Leave to Amend Complaint and Add Defendant's
10/17/2013		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Pandrea Receipt number: 0498635 Dated: 10/17/2013 Amount: \$3.00 (Check)
10/18/2013	ORDR	HENDRICKSO	Order Denying Plaintiff's Re-Filed Motion to Reconsider
	DCHH	HENDRICKSO	Hearing result for Motion to Intervene scheduled on 10/18/2013 01:00 PM: District Court Hearing Held Court Reporter: Veare Number of Transcript Pages for this hearing estimated: Kootenai County J. Thornton Intervenor
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 10/18/2013 01:00 PM: District Court Hearing Held Court Reporter: Kari Veare Number of Transcript Pages for this hearing estimated: All Motion previously scheduled Sept 27 Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
11/20/2013	NOHG	HENDRICKSO	Notice Of Hearing re: John Thorton's Motion to Intervene

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
11/20/2013	HRSC	HENDRICKSO	Hearing Scheduled (Motion 12/06/2013 01:30 PM) J. Thornton's Motion to Intervene	John Patrick Luster
11/27/2013	DEOP	OPPELT	Decision On Plaintiff's Motion to Amend	John Patrick Luster
12/3/2013	NOTC	HENDRICKSO	Notice of Unavailability - Attorney V. Thornton	John Patrick Luster
12/6/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 12/06/2013 01:30 PM: District Court Hearing Held Court Reporter: Anita Self Number of Transcript Pages for this hearing estimated: J. Thornton's Motion to Intervene Kootenai County	John Patrick Luster
	DENY	HENDRICKSO	Hearing result for Motion scheduled on 12/06/2013 01:30 PM: Motion Denied J. Thornton's Motion to Intervene Kootenai County	John Patrick Luster
12/27/2013	MOTN	KRAMES	Motion For Entry Of Final Judgment	John Patrick Luster
	NOHG	KRAMES	Notice Of Hearing Motion for Entry of Final Judgment	John Patrick Luster
	HRSC	KRAMES	Hearing Scheduled (Motion 01/03/2014 01:30 PM) Defendant/Counter-Claimant's Motion for Entry Of Final Judgment	John Patrick Luster
1/3/2014	OBJC	HENDRICKSO	Objection to Clark's Motion for Entry of Final Judgment	John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/03/2014 01:30 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: under 100 pages Defendant/Counter-Claimant's Motion for Entry Of Final Judgment	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 01/17/2014 01:30 PM) for Entry of Judgment Kootenai County	John Patrick Luster
		HENDRICKSO	Notice Of Hearing	John Patrick Luster
	OBJC	HENDRICKSO	Objection to Judgment Motion for Hearing or For Findings of Facts and Conclusions of Law	John Patrick Luster
1/6/2014	OBJC	HENDRICKSO	Objection to Clark's Motion for Entry of Final Judgment	John Patrick Luster
1/13/2014	MEMO	BOWERS	Pre-Hearing Memorandum in Support of Plaintiff's Position Regarding Entry of Final Judgment	John Patrick Luster
1/16/2014	MISC	HENDRICKSO	Declaration of John Marquette	John Patrick Luster
1/17/2014	ORDR	HENDRICKSO	Order Denying John F. Thornton's Motion to Intervene and Motion for Stay	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
1/17/2014	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/17/2014 01:30 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: for Entry of Judgment Kootenai County
1/21/2014	MISC	HENDRICKSO	Coversheet Pandrea's Proposed Judgment and Decree of Partition (1) & (2)
	CINF	HENDRICKSO	Documents emailed to Judge Luster Declaration of John Marquette CoverSheet Pandrea's Proposed Judgment and Decree of Partation (1) & (2) Revised Proposed Judgment and Decree of Partition (Judgment in JO's pending basket)
1/24/2014	JDMT	HENDRICKSO	Revised Judgment and Decree of Partition 7 pgs
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Thornton, John F, Other Party; Pandrea, Mary E., Plaintiff. Filing date: 1/24/2014
1/28/2014		HENDRICKSO	Miscellaneous Payment: Fax Fee Paid by: Jason M. Grey Receipt number: 0001315 Dated: 1/28/2014 Amount: \$9.00 (Credit card)
		HENDRICKSO	Miscellaneous Payment: Technology Cost - CC Paid by: Jason M. Grey Receipt number: 0001315 Dated: 1/28/2014 Amount: \$3.00 (Credit card)
2/7/2014	MOTN	HENDRICKSO	Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	AFFD	HENDRICKSO	Affidavit of Mary E. Pandrea in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	AFFD	HENDRICKSO	Affidavit of Debbie A. Gadbow in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	MOTN	HENDRICKSO	Plaintiff's Motion for Attortney Fees and Costs
	MEMO	HENDRICKSO	Plaintiff's Memorandum of Costs and Attorney Fees
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Motion for Attorney Fees and Costs
	AFFD	HENDRICKSO	Pandrea's Affidavit for Costs and Attorney Fees
	MEMO	HENDRICKSO	Plaintiff's Memorandum in Support of Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification
	CINF	HENDRICKSO	No Notice of Hearing filed with the above motions

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
2/21/2014	MOTN	BOWERS	Defendant's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
	MEMO	BOWERS	Defendant's Memorandum in Support of Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
2/24/2014		KRAMES	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0002884 Dated: 2/24/2014 Amount: \$7.00 (Check) John Patrick Luster
		KRAMES	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Terri Boyd-Davis Receipt number: 0002884 Dated: 2/24/2014 Amount: \$1.00 (Check) John Patrick Luster
2/26/2014	NOHG	KRAMES	Notice Of Hearing Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea (faxed to Judge Luster) John Patrick Luster
	HRSC	KRAMES	Hearing Scheduled (Motion 03/14/2014 10:30 AM) Def's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
3/7/2014		HUMRICH	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Thornton, John F (other party) Receipt number: 0003759 Dated: 3/7/2014 Amount: \$109.00 (Credit card) For: Thornton, John F (other party) John Patrick Luster
		HUMRICH	Filing: Technology Cost - CC Paid by: Thornton, John F (other party) Receipt number: 0003759 Dated: 3/7/2014 Amount: \$3.00 (Credit card) For: Thornton, John F (other party) John Patrick Luster
	BNDC	HUMRICH	Bond Posted - Cash (Receipt 3763 Dated 3/7/2014 for 300.00) John Patrick Luster
	RSPN	KRAMES	Plaintiff's Response To Defendant's Motion To Disallow Attorney Fees And Costs To Pandrea John Patrick Luster
	CHJG	HUMRICH	Change Assigned Judge Idaho Supreme Court
	NOTA	HUMRICH	NOTICE OF APPEAL John Patrick Luster
	APSC	HUMRICH	Appealed To The Supreme Court John Patrick Luster
3/10/2014	CINF	HENDRICKSO	3-10-14 1:47pm Talked with Kathy (Judge Luster's chambers) she stated that the clerk the did the hearing for this order (dated Jan 17th, 2014) just put it in the file and did not fax it to us. She said that she would speak to her supervisor re: the matter of not faxing us the copy to class - order dated 01-17-2014 - Order Denying John F. Thornton's Motion to Intervene and Motion for Stay John Patrick Luster
3/13/2014	NOHG	HENDRICKSO	Notice of Hearing re: Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/13/2014	HRSC	HENDRICKSO	Hearing Scheduled (Motion 05/02/2014 08:00 AM) Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster
3/14/2014	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 03/14/2014 10:30 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Def's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
3/21/2014	CCOA	HUMRICH	Clerk's Certificate Of Appeal Idaho Supreme Court
3/24/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER CONDITIONALLY DISMISSING APPEAL" Idaho Supreme Court
4/10/2014	MISC	HUMRICH	Filed Objection to Dismissal of Appeal; rec'd via email from ISC Idaho Supreme Court
4/15/2014	CINF	ADLER	Clerk Information-appeal currently suspended Idaho Supreme Court
	AFFD	HENDRICKSO	Affidavit of Pandrea in Support of Motion for Reconsideration of Final Judgment and Decree of Partition Idaho Supreme Court
4/23/2014	CINF	HUMRICH	Clerk Information - Appeal currently suspended; pending Order from Court Idaho Supreme Court
4/25/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER DISMISSING APPEAL" Idaho Supreme Court
	CHJG	HUMRICH	Change Assigned Judge John Patrick Luster
	RSPN	HENDRICKSO	Defendant Clark's Response to Plaintiff's Motion for Reconsideration John Patrick Luster
4/29/2014	DEOP	OPPELT	Decision on Plaintiff's Motion for Fees and Costs (8 Pages) John Patrick Luster
4/30/2014	REPL	HENDRICKSO	Plaintiff's Reply to Defendant's Response to Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification and Objection to Facts Not on Record Included in Clark's Supporting Memorandum John Patrick Luster
5/2/2014	CINF	HENDRICKSO	Judge Luster is keeping the file. File under advisement John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 05/02/2014 08:00 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster
5/6/2014		HUMRICH	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Thornton, John F Receipt number: 0007391 Dated: 5/6/2014 Amount: \$10.00 (Cash) John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/6/2014		HUMRICH	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Thornton, John F Receipt number: 0007391 Dated: 5/6/2014 Amount: \$1.00 (Cash) John Patrick Luster
5/8/2014	MISC	HENDRICKSO	Augmented Exhibit from Hearing Dated May 2, 2014 for Pandrea's Motion for Reconsideration of the Final Judgment and Decree of Partition Filed February 7, 2014 John Patrick Luster
5/9/2014	LETT	HENDRICKSO	Letter from Mary E. Pandrea to The Honorable John P. Luster Dated May 9, 2014 John Patrick Luster
5/15/2014	OBJC	BOWERS	Defendant's Objection to Consideration of Plaintiff's Post-Hearing Filings John Patrick Luster
5/22/2014	REMT	HUMRICH	Remittitur (copy faxed to Judge Luster) John Patrick Luster
5/29/2014	RSPN	KRAMES	Plaintiff Mary Panrea's Response To Clark's Objection To Exhibit And Request For Judicial Notice John Patrick Luster
5/30/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ACKNOWLEDGMENT OF RECEIPT: REMITTITUR" John Patrick Luster
	REMT	HUMRICH	Remittitur John Patrick Luster
	BNDE	HUMRICH	Cash Bond Exonerated (Amount 300.00) John Patrick Luster
3/3/2014	MISC	HENDRICKSO	Decision on Plaintiff's Motion for Reconsideration John Patrick Luster
3/6/2014		TAYLOR	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0009389 Dated: 6/6/2014 Amount: \$9.00 (Cash) John Patrick Luster
7/8/2014	MOTN	HUMRICH	Motion and Affidavit for Fee Waiver (faxed to Judge Luster) John Patrick Luster
7/14/2014	ORDR	HUMRICH	Order Re: Fee Waiver John Patrick Luster
	NOTA	HUMRICH	NOTICE OF APPEAL John Patrick Luster
	APSC	HUMRICH	Appealed To The Supreme Court John Patrick Luster
7/16/2014		HUMRICH	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Pandrea, Mary E. (plaintiff) Receipt number: 0011695 Dated: 7/16/2014 Amount: \$.00 (Cash) For: Pandrea, Mary E. (plaintiff) John Patrick Luster
7/23/2014	MISC	HUMRICH	Clerk's Records due 10/29/2014 John Patrick Luster
7/24/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER CONDITIONALLY DISMISSING APPEAL FOR A FINAL JUDGMENT" John Patrick Luster
	MISC	HUMRICH	ISC Docket #42333-2014 John Patrick Luster
	REQU	HUMRICH	Respondent's Request for Additional Transcript John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
7/29/2014	CINF	HUMRICH	Clerk Information - faxed to Judge Luster; Order Conditionally Dismissing Appeal for a Final Judgment and Respondent's Request for Additional Transcript John Patrick Luster
8/12/2014	JDMT	HENDRICKSO	Judgment (6 pgs) Richard Christensen
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Pandrea, Mary E., Plaintiff. Filing date: 8/12/2014 Richard Christensen
8/27/2014	MISC	HUMRICH	Clerk's Records due 12/2/2014 John Patrick Luster
8/28/2014	CCOA	HUMRICH	Clerk's Certificate Of Appeal John Patrick Luster
		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Val Thornotn Receipt number: 0014028 Dated: 8/28/2014 Amount: \$10.00 (Cash) John Patrick Luster
		HENDRICKSO	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Val Thornotn Receipt number: 0014028 Dated: 8/28/2014 Amount: \$1.00 (Cash) John Patrick Luster
9/2/2014	SCDF	HUMRICH	Supreme Court Document Filed- "SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT" John Patrick Luster
9/9/2014	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14714 Dated 9/9/2014 for 687.90) John Patrick Luster
	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14716 Dated 9/9/2014 for 215.00) John Patrick Luster
	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14718 Dated 9/9/2014 for 516.75) John Patrick Luster
9/11/2014	JDMT	HENDRICKSO	Amended Judgment John Patrick Luster
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Pandrea, Mary E., Plaintiff. Filing date: 9/11/2014 John Patrick Luster
9/15/2014	SCDF	HUMRICH	Supreme Court Document Filed- "RESPONSE TO SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT" (Filed by M. Pandrea) - rec'd via email from ISC John Patrick Luster
9/17/2014	CINF	HUMRICH	Amended Judgment filed 9/11/2014 certified and emailed to ISC; per request John Patrick Luster
9/22/2014	JDMT	HUMRICH	Amended Judgment filed with Supreme Court John Patrick Luster
10/9/2014	SCDF	HUMRICH	Supreme Court Document Filed- "Order to Reinstate Appellate Proceedings" John Patrick Luster
10/10/2014	MISC	HUMRICH	Statement dated 9/26/2014 from Julie K. Foland for transcripts \$613.15 John Patrick Luster
	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Julie K. Foland - Court Trial Day One 6/12/2012 and Court Trial Day Two 6/13/2012 John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
10/10/2014	TRAN	HUMRICH	Transcript Filed by Julie K. Foland - Court Trial Day 1 on 6/12/2012 and Court Trial Day 2 on 6/13/2012 John Patrick Luster
10/16/2014	BNDV	HUMRICH	Bond Converted (Transaction number 1489 dated 10/16/2014 amount 613.15) John Patrick Luster
10/29/2014	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Keri Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014 John Patrick Luster
	MISC	HUMRICH	Invoice for transcripts from Keri J. Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014; \$503.75 John Patrick Luster
	TRAN	HUMRICH	Transcript Filed by Keri J. Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014 John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1575 dated 10/29/2014 amount 503.75) John Patrick Luster
	BNDE	HUMRICH	Cash Bond Exonerated (Amount 13.00) John Patrick Luster
11/3/2014	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Valerie Nunemacher - Motion to Reconsider on 6/26/2013 John Patrick Luster
	TRAN	HUMRICH	Transcript Filed by Valerie Nunemacher - Motion to Reconsider on 6/26/2013 John Patrick Luster
	MISC	HUMRICH	Invoice dated 10/31/2014 from Valerie Nunemacher for transcript of Motion to Reconsider on 6/26/2013 - \$250.25 John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1585 dated 11/3/2014 amount 215.00) John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1586 dated 11/3/2014 amount 35.25) John Patrick Luster

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Attorneys for Plaintiff

FILED
JUL 11 2011
CLERK DISTRICT COURT
BONNER COUNTY, IDAHO
NAME: J. SCOTT
CLERK DISTRICT COURT
ap

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11- *00835*

**COMPLAINT FOR PARTITION AND
ACCOUNTING**

Fee Category: A
Fee: \$88.00

COMES NOW the above-named Plaintiff, by and through her counsel of record, Ramsden & Lyons, LLP, and for a cause of action against the above-named Defendant, complains and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, at all times relevant to this action, was a resident of the State of Washington and is the owner as a tenant in common with Defendant Kari A. Clark of certain real property located in Bonner County, Idaho. Said property is more particularly described in **Exhibit A** hereto (hereafter the "Property").

ASSIGNED TO STEVE VERBY
DISTRICT JUDGE

2. Defendant Kari A. Clark, at all times relevant to this action, was a resident of the State of Oregon and is the owner as a tenant in common with Plaintiff of the Property.

3. The Property that is the subject of this action is located in Bonner County, Idaho and thus venue is proper in Bonner County, Idaho pursuant to Idaho Code § 5-401.

4. This Court has jurisdiction pursuant to Idaho Code § 1-705.

GENERAL ALLEGATIONS

5. Plaintiff and Defendant are siblings.

6. On April 9, 2002, Kari A. Clark (Defendant) and Mary E. Pandrea (Plaintiff) created the Kari A. Clark and Mary E. Pandrea Revocable Trust, of which Plaintiff and Defendant were co-trustees. The Trust became the record holder of title to two properties relevant hereto, which are commonly referred to as 4687 Upper Pack River Road, Sandpoint, Idaho (hereafter the "Property"). The properties consisted of an approximate 15 acre parcel and an approximate 5 acre parcel with a log cabin, log shop and other improvements. These properties were conveyed to the Trust by Plaintiff and Defendant who owned them as tenants in common.

7. On June 21, 2010, Kari A. Clark, as co-trustee of the aforementioned Trust, unilaterally conveyed 100% of the interest in the 15 acre parcel to herself, an individual or as trustee of the "Kari A. Clark Revocable Trust." Also on June 21, 2010, as co-trustee of the Kari A. Clark and Mary E. Pandrea Revocable Trust, Kari A. Clark unilaterally conveyed an undivided one-half interest in the 5 acre parcel to herself, individually or as trustee of the Kari A. Clark Revocable Trust and the other one-half undivided interest in said 5 acre parcel to Mary E. Pandrea, an individual, via quitclaim deeds.

8. On or about June 21, 2010, Kari A. Clark purported to “dissolve” the Kari A. Clark and Mary E. Pandrea Revocable Trust via the above-mentioned “conveyances.”

9. Since June 21, 2010, the parties have held the 5 acre parcel of property as tenants in common.

10. Since June 21, 2010, Kari A. Clark, individually or as trustee of the Kari A. Clark Revocable Trust has been the record holder of title to 100% of the interest in the 15 acre parcel of property, although, in fact, the 15 acre parcel is also held as tenancy in common by the parties pursuant to the terms of the Trust and by operation of law.

11. Prior to June 21, 2010, Plaintiff paid the necessary costs to care for, improve and maintain the Property and the improvements thereon, including, but not limited to, the annual payment of property taxes; physical improvements such as a well; cabin renovation; tree planting/maintenance, and the like. Defendant has not materially contributed to or reimbursed Plaintiff for, these expenses.

12. By purporting to unilaterally convey the Property held in the Trust, Defendant has effectively terminated the Trust and all tenancy in common interests previously transferred to the Trust escheat to tenancy in common interests upon dissolution of the Trust.

13. In November and December of 2010, Plaintiff paid for and obtained appraisals and a Comparative Market Analysis of the Property. Defendant did not share in or reimburse Plaintiff for the expense of said appraisals or the Comparative Market Analysis.

14. On December 21, 2010 and again on February 10, 2011, Plaintiff offered to purchase Defendant’s undivided interest in the Property for an amount that is substantially more than 50% of the value reflected by the appraisals and the Comparative Market

Analysis. Defendant has not accepted the offer nor has Defendant shown any interest in engaging in any negotiation.

15. Plaintiff and Defendant's interests and plans for the Property are divergent and cannot be reconciled without the involvement of this Court.

COUNT ONE – ACTION FOR PARTITION

16. Plaintiff re-alleges each and every allegation in Paragraphs 1 through 15 as if fully set forth herein.

17. Plaintiff desires to terminate the tenancy in common with Defendant according to the respective rights of each tenant in common. There are no other tenants in common or any other owners of the Property except for Plaintiff and Defendant.

18. Given the inherent, natural characteristics of the Property, a physical partition cannot be made without great prejudice to the owners, and thus a partition by sale is appropriate.

19. Plaintiff has been forced, due to the actions and inactions of Defendant, to engage the services of legal counsel to protect her rights and will incur legal expenses including costs and attorney's fees.

COUNT TWO – ACCOUNTING

17. Plaintiff re-alleges each and every allegation in Paragraphs 1 through 19 as if fully set forth herein.

18. Plaintiff demands that Defendant account for the proceeds of the Trust as an asset of the Trust.

19. Defendant has unilaterally retained or exercised dominion over assets properly belonging to the Trust and has not made an accounting to Plaintiff.


20. Plaintiff is entitled to an accounting of the Trust with respect to the assets of the Trust and the final distribution of those assets.

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

1. For partition by sale of the Property with the proceeds of the sale being divided evenly between the parties, *after* all reasonable offsets are subtracted from the proceeds and awarded to the entitled party pursuant to an accounting of the same.
2. For attorney's fees and costs pursuant to I.C. §12-120 or I.C. § 12-121. In the event of a default in this action, a reasonable attorney's fee is \$3,500.00 plus the cost of services to procure the appraisals and the Comparative Market Analysis.
3. Such other and further relief as the Court deems proper.

DATED this 10th day of May, 2011.

RAMSDEN & LYONS, LLP

By: 
Douglas S. Marfice, Of the Firm
Attorneys for Plaintiff

VERIFICATION

STATE OF IDAHO)
) ss.
County of Kootenai)

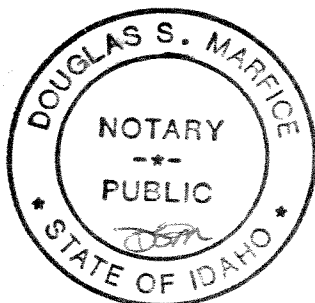
MARY E. PANDREA, being first duly sworn upon oath, deposes and states:


I am the Plaintiff in the above-entitled action; I have read the foregoing *Complaint for Partition and Accounting*; I know the contents thereof, and I state the same to be true to the best of my knowledge, information and belief.



MARY E. PANDREA

SUBSCRIBED AND SWORN to before me this 10th day of May, 2011.





Notary Public for Idaho
Residing at Coeur d'Alene, ID
My commission expires Oct. 16 2015

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11- *00835*

SUMMONS

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFF.
THE COURT MAY ENTER JUDGMENT AGAINST YOU WITHOUT
FURTHER NOTICE UNLESS YOU RESPOND WITHIN 20 DAYS.
READ THE INFORMATION BELOW.

TO: KARIA. CLARK

You are hereby notified that in order to defend this lawsuit, an appropriate written response must be filed with the above designated court within 20 days after service of this Summons on you. If you fail to so respond the court may enter judgment against you as demanded by the Plaintiff in the Complaint.

ASSIGNED TO STEVE VERBY
DISTRICT JUDGE

SUMMONS - 1

Our File Copy

0045

A copy of the Complaint is served with this Summons. If you wish to seek the advice or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate written response requires compliance with Rule 10(a)(1) and other Idaho Rules of Civil Procedure and shall also include:

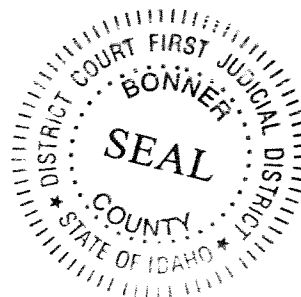
1. The title and number of this case.
2. If your response is an Answer to the Complaint, it must contain admissions or denials of the separate allegations of the Complaint and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to Plaintiffs' attorney, as designated above.

To determine whether you must pay a filing fee with your response, contact the Clerk of the above-named court.

DATED this 12 day of May, 2011.

CLERK OF THE DISTRICT COURT

By: A. Phillips
Deputy Clerk



RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
CLERK DISTRICT COURT
2011 MAY 19 AM 10:08
MARIE SCOTT
CLERK DISTRICT COURT
as
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

LIS PENDENS

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN, pursuant to Idaho Code § 5-505, that an action has been commenced and is now pending in this Court on the Complaint of the above-named Plaintiff against the above-named Defendants. Based upon the allegations contained in the Complaint on file with the Court, the Plaintiff claims an interest in those certain real properties located in the County of Bonner, State of Idaho, described as follows, to wit:

Parcel 1: A tract of land located in Section 11, Township 59 North, Range 2 West, Boise Meridian, Bonner County, Idaho, more fully described as follows:

Commencing at the Southeast corner of said Section 11; thence N.0 degrees 58'55" E. along the east line of said Section 11 a distance of 1325.42 feet; thence W. a distance of 1978.63 feet to the point of beginning; thence N.27 degrees 57'08" W. a distance of 448.04 feet; thence N.0 degrees 01'23" W. a distance of 225.00 feet; thence S. 70 degrees 01'23" E. a distance of 245.00 feet; thence S.46 degrees 01'23" E. a distance of 375.00 feet; thence S.18 degrees 32'25" E. a distance of 195.54 feet; thence S.59 degrees 26'55" E. a distance of 302.20 feet to the westerly right-of-way of the country road; thence southwesterly along the right-of-way of the country road to the thread of Pack River; thence northwesterly along the thread of Pack River to a point that is S.27 degrees 57'08" E. of the point of beginning; thence N.27 degrees 57'08" W. to the point of beginning.

Subject to a 30.0 foot easement for a road right-of-way and utilities, more fully described as follows:

A tract of land for a road easement located in Section 11, Township 59 North, Range 2 West, Boise Meridian, Bonner County, Idaho, said road easement being 30.0 feet wide (15.0 feet each side of the centerline), the centerline being more fully described as follows:

Commencing at the southeast corner of said Section 11; thence N.0 degrees 58'55" E. along the east line of said section a distance of 1325.42 feet; thence west a distance of 1978.63 feet; thence N.27 degrees 57'08" W. a distance of 448.04 feet to the point of beginning; thence S.59 degrees 03'17" E. a distance of 637.22 feet; thence S.58 degrees 03'22" E. a distance of 300.0 feet more or less to the westerly right-of-way of the Pack River County Road.

LESS that portion lying Southeasterly of the centerline of Tavern Creek.

A diagram for illustrative purposes only is attached hereto as Exhibit "A".

Parcel 2: A tract of land located in Section 11, Township 59 North, Range 2 West of the Boise Meridian, Bonner County, Idaho, more fully described as follows:

Commencing at the South Quarter corner of said Section 11; thence North 00 degrees 55'33" East along the North-South centerline of said Section 11 a distance of 1313.53 feet to the point of beginning; thence North 00 degrees 55'33" East a distance of 1313.53 feet; thence North 89 degrees 58'35" East a distance of 1014.58 feet to the centerline of a creek; thence

Southwesterly along the centerline of said creek a distance of approximately 250.00 feet, said point being South 41 degrees 58'38" West a distance of 254.43 feet from the last called point; thence South 00 degrees 00'40" East a distance of 116.62 feet; thence North 81 degrees 43'37" West a distance of 122.52 feet; thence South 4 degrees 16'49" East a distance of 142.00 feet; thence South 59 degrees 43'07" East a distance of 273.79 feet; thence South 21 degrees 16'18" East a distance of 244.00 feet; thence South 21 degrees 23'33" East a distance of 223.83 feet; thence South 34 degrees 04'05" West a distance of 256.10 feet; thence North 18 degrees 32'25" West a distance of 195.54 feet; thence North 46 degrees 01'23" West a distance of 375.00 feet; thence North 70 degrees 01'23" West a distance of 245.00 feet; thence South 00 degrees 01'23" East a distance of 225.00 feet; thence South 62 degrees 01'08" West a distance of 290.00 feet more or less to the thread of Pack River; thence Southeasterly along the thread of Pack River to a point that is South 89 degrees 57'04" East of the point of beginning; thence North 89 degrees 57'04" West a distance of 330.00 feet more or less to the point of beginning.

LESS that portion lying West of the centerline of Pack River.

TOGETHER WITH and subject to a 30.0 foot easement for a road right-of-way and utilities on existing road as surveyed or to be surveyed

SUBJECT TO: Right of the State of Idaho in and to the portion, if any, of the property herein described which lies below the line of ordinary high water of the Pack River

DATED this 18th day of May, 2011.

RAMSDEN & LYONS, LLP

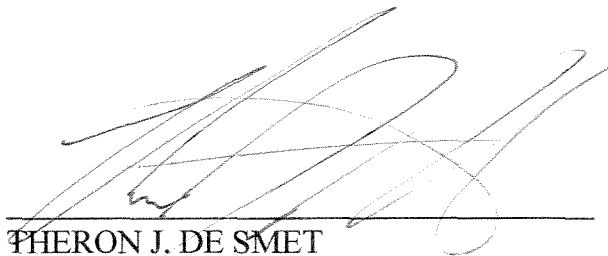
By: 

Theron J. De Smet, Of the Firm
Attorney for Plaintiff

STATE OF IDAHO)
)ss.
County of Kootenai)

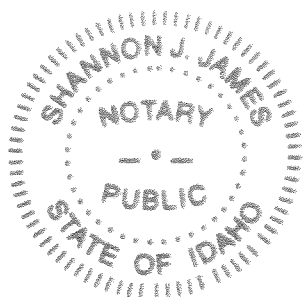
I, Theron J. De Smet, being first duly sworn on oath, deposes and says that I am one of the attorneys for the Plaintiff in the above-captioned matter, have read the foregoing *Lis Pendens*, am familiar with the matters asserted therein, and believe the same to be true and correct to the best of my knowledge and belief.


This *Lis Pendens* is necessary to protect Plaintiff's interests in the above-described real properties pending the resolution of this litigation.



THERON J. DE SMET

SUBSCRIBED & SWORN to before me this 18 day of May, 2011.





NOTARY PUBLIC FOR IDAHO
RESIDING AT: Post Falls
COMMISSION EXPIRES: 7-7-12

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

CLERK DISTRICT COURT
27 MAY 19 4 54 05
MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

MOTION TO DISQUALIFY

COMES NOW the above-entitled Plaintiff, Mary E. Pandrea, by and through her counsel of record, and hereby moves the Court pursuant to I.R.C.P. 40(d)(1), for its order disqualifying the Honorable Steve Verby from the above-captioned matter.

DATED this 15th day of May, 2011.

RAMSDEN & LYONS, LLP

By: 

Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

CLERK OF DISTRICT COURT
COUNTY OF BONNER
JUDICIAL DISTRICT
2011 MAY 20 A 10:15
MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY *MS*

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

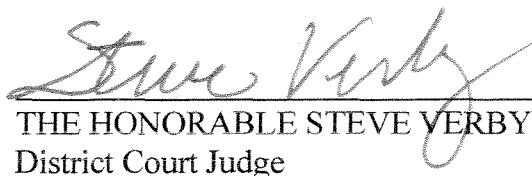
Case No. CV-11-835

ORDER TO DISQUALIFY JUDGE

The foregoing Motion to Disqualify Judge having duly and regularly come before this Court, and good cause appearing therefore,

IT IS HEREBY ORDERED, that The Honorable Steve Verby is disqualified from the above-captioned matter.

DATED this 20th day of May, 2011.



THE HONORABLE STEVE VERBY
District Court Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of May, 2010, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Theron J. De Smet
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 664-5884

*Judge Mitchell
via fax to (208) 446-1132*

A. Phillips
Deputy Clerk

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA,

Plaintiffs,

vs

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

CASE NO. CV2011-835

ORDER OF REASSIGNMENT

The Honorable Steve Verby having been disqualified pursuant to Idaho Rule 40(d)(1) in the above matter now,

IT IS HEREBY ORDERED that the above matter is assigned to the Honorable Benjamin R. Simpson, District Judge for the disposition of any pending and further proceeding.

IT IS FURTHER ORDERED that the following alternate judges are hereby assigned to preside in this case Lansing L. Haynes, John P. Luster, John T. Mitchell, Charles W. Hosack and George R. Reinhardt, III.

DATED this 20 day of May, 2011.


John T. Mitchell
Administrative District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 20 day of May 2011, a true and correct copy of the foregoing was sent via facsimile, U.S. Mail, or interoffice mail to the following:

Theron J. De Smet, Attorney at Law, (208) 664-5884

CLERK OF THE DISTRICT COURT, By A. Phillips

Deputy Clerk

ORDER OF REASSIGNMENT: 1
CV

0054

AFFIDAVIT OF SERVICE

State of Idaho

County of Bonner

District Court

Case Number: CV-11-00835

Plaintiff:

MARY E. PANDREA, a single woman,

vs.

Defendant:

**KARI A. CLARK, a single woman individually and as Trustee of the
Kari A. Clark Trust U/A Dated June 21, 2010,**

STATE OF IDAHO
COUNTY OF BONNER
DISTRICT COURT
2011 JUN -7 A 9:56
MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Received by DIRECT PROCESS SERVERS, INC. to be served on **KARI CLARK, 204 JOHNSON ST.,
SUTHERLIN, OREGON 97479.**

I, J.D. COLTON, being duly sworn, depose and say that on the **1st day of June, 2011 at 6:18 pm, I:**

PERSONALLY SERVED the within named person or persons with a true copy of **SUMMONS; COMPLAINT FOR
PARTITION AND ACCOUNTING** with the date and hour endorsed thereon by me.

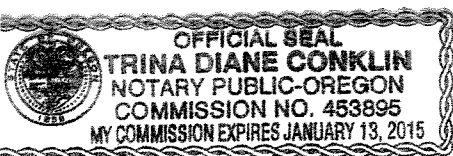
I certify I am a competent person 18 years of age or older, a resident of the State of Oregon, and am not a party to,
or officer, director, employee of, nor attorney for any party, corporate or otherwise, and that I know the person, firm
or corporation is the identical one named in the action.

Subscribed and sworn to before me on the 2nd day of
June, 2011 by the affiant who is personally known to
me.

Trina Diane Conklin
Notary public for the State of Oregon

J.D. Colton
J.D. COLTON
Process Server

DIRECT PROCESS SERVERS, INC.
P.O. Box 1698
1229 S.E. Stephens
Roseburg, OR 97470
(541) 673-1205
Our Job Serial Number: DRT-2011000975



ORIGINAL

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 JUN 20 P 1:31

Kari A. Clark
204 Johnson
Sutherlin, OR 97479
Defendant

MARIE SCOTT
CLERK DISTRICT COURT
MS
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. FANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

) Case No: CV11-00835

) NOTICE OF APPEARANCE

NOTICE IS GIVEN that Kari A. Clark, hereby makes an appearance in this action. All
future pleadings and all other communications in this matter should hereafter be directed to:

Kari A. Clark
204 Johnson
Sutherlin, OR 97479

Date of this 17th day of June 2011.

Kari A. Clark

Kari A. Clark
Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20 day of June 2011, I caused to be served in the following manner a true and correct copy of the foregoing:

NOTICE OF APPEARANCE

Douglas S. Marfice Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiffs</i>	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Ethel M. Boyce

ORIGINAL

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 JUN 20 P 1:29

Kari A. Clark
204 Johnson
Sutherlin, OR 97479
*Defendant*MARIE SCOTT
CLERK DISTRICT COURT
ap
DEPUTYIN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,	)	Case No: CV11-00835
)	
Plaintiff,	)	MOTION TO DISQUALIFY JUDGE
)	
vs.)	
)	
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark Trust U/A Dated June 21, 2010;)	
)	
Defendant.)	

COMES NOW Defendant KARI A. CLARK, and moves this Court pursuant to I.R.C.P. 40(d)(1) for an Order disqualifying the Honorable Benjamin R. Simpson in this matter and assigning a new district judge. This motion is not made to hinder, delay or obstruct the administration of justice.

Defendant does not request oral argument on this motion.

Dated this 17th day of June 2011.

Kari A. Clark
Kari A. Clark
Defendant

CERTIFICATE OF SERVICE

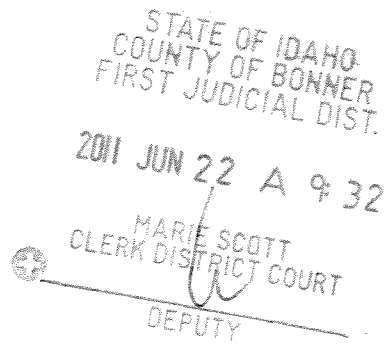
I HEREBY CERTIFY that on the 20 day of June 2011, I caused to be served in the following manner a true and correct copy of the foregoing:

MOTION TO DISQUALIFY JUDGE

Douglas S. Marfice Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiffs</i>	<input checked="checked" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Ethel M. Boyd

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184



Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

**NOTICE OF INTENT TO TAKE
DEFAULT**

COMES NOW Plaintiff, by and through counsel of record, and consistent with I.R.C.P.
55, advises Defendant of its intent to take default judgment against the Defendant on or after
June 29th, 2011.

DATED this 21st day of June, 2011.

RAMSDEN & LYONS, LLP

By: 

Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 21 day of June, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kari A. Clark
204 Johnson Street
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 JUN 24 A 9:10

Kari A. Clark
204 Johnson
Sutherlin, Oregon 97479
DEFENDANT

MARIE SCOTT
CLERK DISTRICT COURT
ap
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,	)	Case No: CV11-00835
)	
Plaintiff,	)	ANSWER TO COMPLAINT FOR
	)	PARTITION AND ACCOUNTING
vs.)	
)	
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark Trust U/A Dated June 21, 2010;)	
)	
Defendant.)	

I.

ANSWER

COMES NOW Defendant KARI A. CLARK (hereinafter "Defendant" or "Clark"), in answer to the allegations in Plaintiff's Complaint for Partition and Accounting, allege as follows:

1.1 In response to paragraph 1 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to whether Plaintiff Mary E. Pandrea (hereinafter "Plaintiff" or "Pandrea") was or is a resident of the State of Washington and, therefore, denies the same. Defendant is, additionally, without knowledge or information sufficient to form a belief as to whether Plaintiff is an owner as tenant in common with Defendant of certain real property located in Bonner County, Idaho as described in Exhibit A to Plaintiff's Complaint because no Exhibit A is attached to the Complaint that was served on Defendant. Plaintiff has failed to properly and

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

sufficiently identify the "Property" and Defendant therefore denies said allegations and demands strict proof thereof.

1.2 In response to paragraph 2 of Plaintiff's Complaint, Defendant admits that she is a resident of the State of Oregon. Defendant is without knowledge or information sufficient to form a belief as to whether she is the owner as tenant in common with Plaintiff of "the Property" because "the Property" has not been sufficiently defined in Plaintiff's Complaint due to Plaintiff's failure to attach Exhibit A to her Complaint and Defendant therefore denies said allegations and demands strict proof thereof.

1.3 In response to paragraph 3 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of paragraph 3 and Defendant therefore denies said allegations and demands strict proof thereof.

1.4 In response to paragraph 4 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of paragraph 4 and Defendant therefore denies said allegations and demands strict proof thereof.

1.5 In response to paragraph 5 of Plaintiff's Complaint, Defendant admits the allegations set forth therein.

1.6 In response to paragraph 6 of Plaintiff's Complaint, Defendant admits that Clark and Pandrea created the Kari A. Clark and Mary E. Pandrea Revocable Trust on April 9, 2002, of which Clark and Pandrea were co-trustees. The remaining allegations contained in paragraph 6 are denied in that Plaintiff has failed to plead sufficient facts to identify the "Property," the approximate 15 acre parcel, the approximate 5 acre parcel, and further essential facts sufficient for Defendant to respond.

1.7 In response to paragraph 7 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the 15 acre parcel, the 5 acre parcel, and further essential facts sufficient for Defendant to respond.

1.8 In response to paragraph 8 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.9 In response to paragraph 9 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.10 In response to paragraph 10 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.11 In response to paragraph 11 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, Defendant therefore denies said allegations and demands strict proof thereof.

1.12 In response to paragraph 12 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

1.13 In response to paragraph 13 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Property and further essential facts sufficient for Defendant to respond.

1.14 In response to paragraph 14 of Plaintiff's Complaint, Defendant admits that since December 21, 2010, she has not accepted any offers from Plaintiff to purchase any interest in any property owned by Defendant but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.15 In response to paragraph 15 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.16 In response to paragraph 16 of Plaintiff's Complaint, Defendant realleges and incorporates the responses to the above allegations as if set forth fully herein.

1.17 In response to paragraph 17 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Property and further essential facts sufficient for Defendant to respond.

1.18 In response to paragraph 18 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Property and further essential facts sufficient for Defendant to respond.

1.19 Answering paragraph 19 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

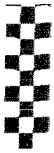
1.20 Answering the second paragraph numbered 17 (Plaintiff's Complaint contains two paragraphs numbered 17) of Plaintiff's Complaint (under Count Two – Accounting) Defendant realleges and incorporates the responses to the above allegations as if set forth fully herein.

1.21 Answering the second paragraph 18 (Plaintiff's Complaint contains two paragraphs numbered 18) of Plaintiff's Complaint (under Count Two – Accounting) Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

1.22 Answering the second paragraph 19 (Plaintiff's Complaint contains two paragraphs numbered 19) of Plaintiff's Complaint (under Count Two – Accounting) Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

1.23 Answering the second paragraph 20 (Plaintiff's Complaint contains two paragraphs numbered 20) of Plaintiff's Complaint (under Count Two – Accounting)

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING



Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

II.

AFFIRMATIVE DEFENSES

In response to Plaintiff's Complaint for Partition and Accounting, Defendant pleads the following affirmative defenses:

- 2.1 Plaintiff has failed to state a claim under which relief can be granted.
- 2.2 Plaintiff's claims are barred by her failure to mitigate damages.
- 2.3 Plaintiff's claims are barred by mutual or unilateral mistake.
- 2.4 Plaintiff's claims are barred under the doctrine of quasi-estoppel.
- 2.5 Plaintiff's claims are barred under the doctrine of ratification.
- 2.6 Plaintiff's claims are barred by the statute of frauds.
- 2.7 Plaintiff's claims against Defendant are barred by the doctrine of unclean hands, waiver and/or estoppel.
- 2.8 Defendant reserves the right to assert additional affirmative defenses as warranted by ongoing discovery.

WHEREFORE, Defendant requests judgment against Plaintiff as follows:

1. That Plaintiff take nothing by her complaint, which should be dismissed with prejudice.
2. That Plaintiff be ordered to pay all of Defendant's reasonable costs and attorneys' fees incurred in defending this action;
3. That the court provide for such other and further relief as it may deem just and equitable.

DATED: June 23, 2011

Karl A. Clark
Karl A. Clark
Defendant

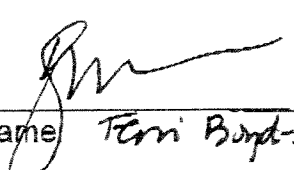
ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of June 2011, I served a true and correct copy of the foregoing **ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING** by the method indicated below, and addressed to the following:

Douglas S. Marfice
Ramsden & Lyons, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile: 208-664-5884



Name Terri Boyd-Davis

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

RAMSDEN & LYONS, LLP

ATTORNEYS AT LAW

MICHAEL E. RAMSDEN*

MARC A. LYONS*

DOUGLAS S. MARFICE*

MICHAEL A. EALY*

TERRANCE R. HARRIS*

CHRISTOPHER D. GABBERT

THERON J. DE SMET

WILLIAM F. BOYD, OF COUNSEL

P.O. BOX 1336

COEUR D'ALENE, ID 83816-1336

TELEPHONE: (208) 664-5818

FACSIMILE: (208) 664-5884

E-MAIL: firm@ramsdentlyons.com

WEBSITE: www.ramsdentlyons.com

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 JUN 28 A 10:01
STREET ADDRESS:
700 NORTHWEST BLVD.

COEUR D'ALENE, ID 83814
CLERK DISTRICT COURT

ALL ATTORNEYS LICENSED IN IDAHO

* LICENSED IN WASHINGTON

June 27, 2011

Clerk of the District Court
Bonner County
215 S. 1st Ave.
Sandpoint, ID 83864

Re: *Mary E. Pandrea v. Kari A. Clark*
Bonner Co. Case No. CV-11-835

Dear Clerk:

Enclosed herewith for filing is **Exhibit A** to the Complaint in the above-referenced matter. Exhibit A was inadvertently omitted when the Complaint was initially filed. Please attach Exhibit A to the previously filed Complaint.

Thank you for your time and attention to this matter.

Yours very truly,


Theron J. De Smet

TJD/sj
Enclosure
Cc: Kari Clark

0068

EXHIBIT A to the Complaint

The real properties of record, located in Bonner County, Idaho and legally described as:

Parcel 1 (approximately 5 acres):

A tract of land located in Section 11, Township 59 North, Range 2 West, Boise Meridian, Bonner County, Idaho, more fully described as follows:

Commencing at the Southeast corner of said Section 11; thence N.0 degrees 58'55" E. along the east line of said Section 11 a distance of 1325.42 feet; thence W. a distance of 1978.63 feet to the point of beginning; thence N.27 degrees 57'08" W. a distance of 448.04 feet; thence N.0 degrees 01'23" W. a distance of 225.00 feet; thence S. 70 degrees 01'23" E. a distance of 245.00 feet; thence S.46 degrees 01'23" E. a distance of 375.00 feet; thence S.18 degrees 32'25" E. a distance of 195.54 feet; thence S.59 degrees 26'55" E. a distance of 302.20 feet to the westerly right-of-way of the country road; thence southwesterly along the right-of-way of the country road to the thread of Pack River; thence northwesterly along the thread of Pack River to a point that is S.27 degrees 57'08" E. of the point of beginning; thence N.27 degrees 57'08" W. to the point of beginning.

Subject to a 30.0 foot easement for a road right-of-way and utilities, more fully described as follows:

A tract of land for a road easement located in Section 11, Township 59 North, Range 2 West, Boise Meridian, Bonner County, Idaho, said road easement being 30.0 feet wide (15.0 feet each side of the centerline), the centerline being more fully described as follows:

Commencing at the southeast corner of said Section 11; thence N.0 degrees 58'55" E. along the east line of said section a distance of 1325.42 feet; thence west a distance of 1978.63 feet; thence N.27 degrees 57'08" W. a distance of 448.04 feet to the point of beginning; thence S.59 degrees 03'17" E. a distance of 637.22 feet; thence S.58 degrees 03'22" E. a distance of 300.0 feet more or less to the westerly right-of-way of the Pack River County Road.

LESS that portion lying Southeasterly of the centerline of Tavern Creek.

Parcel 2 (approximately 15 acres):

A tract of land located in Section 11, Township 59 North, Range 2 West of the Boise Meridian, Bonner County, Idaho, more fully described as follows:

Commencing at the South Quarter corner of said Section 11; thence North 00 degrees 55'33" East along the North-South centerline of said Section 11 a distance of 1313.53 feet to the point of beginning; thence North 00 degrees 55'33" East a distance of 1313.53 feet; thence North 89 degrees 58'35" East a distance of 1014.58 feet to the centerline of a creek; thence Southwesterly along the centerline of said creek a distance of approximately 250.00 feet, said point being South 41 degrees 58'38" West a distance of 254.43 feet from the last called point; thence South 00 degrees 00'40" East a distance of 116.62 feet; thence North 81 degrees 43'37" West a distance of 122.52 feet; thence South 4 degrees 16'49" East a distance of 142.00 feet; thence South 59 degrees 43'07" East a distance of 273.79 feet; thence South 21 degrees 16'18" East a distance of 244.00 feet; thence South 21 degrees 23'33" East a distance of 223.83 feet; thence South 34 degrees 04'05" West a distance of 256.10 feet; thence North 18 degrees 32'25" West a distance of 195.54 feet; thence North 46 degrees 01'23" West a distance of 375.00 feet; thence North 70 degrees 01'23" West a distance of 245.00 feet; thence South 00 degrees 01'23" East a distance of 225.00 feet; thence South 62 degrees 01'08" West a distance of 290.00 feet more or less to the thread of Pack River; thence Southeasterly along the thread of Pack River to a point that is South 89 degrees 57'04" East of the point of beginning; thence North 89 degrees 57'04" West a distance of 330.00 feet more or less to the point of beginning.

LESS that portion lying West of the centerline of Pack River.

TOGETHER WITH and subject to a 30.0 foot easement for a road right-of-way and utilities on existing road as surveyed or to be surveyed

SUBJECT TO: Right of the State of Idaho in and to the portion, if any, of the property herein described which lies below the line of ordinary high water of the Pack River

to the Complaint that was served on Defendant. Plaintiff has failed to properly and sufficiently identify the "Property" and Defendant therefore denies said allegations and demands strict proof thereof.

1.2 In response to paragraph 2 of Plaintiff's Complaint, KARI A. CLARK TRUST admits that is a revocable Trust established under the laws of the State of Idaho. Defendant is without knowledge or information sufficient to form a belief as to whether she is the owner as tenant in common with Plaintiff of "the Property" because "the Property" has not been sufficiently defined in Plaintiff's Complaint due to Plaintiff's failure to attach Exhibit A to her Complaint and Defendant therefore denies said allegations and demands strict proof thereof.

1.3 In response to paragraph 3 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of paragraph 3 and Defendant therefore denies said allegations and demands strict proof thereof.

1.4 In response to paragraph 4 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of paragraph 4 and Defendant therefore denies said allegations and demands strict proof thereof.

1.5 In response to paragraph 5 of Plaintiff's Complaint, Defendant admits the allegations set forth therein.

1.6 In response to paragraph 6 of Plaintiff's Complaint, Defendant admits that Clark and Pandrea created the Kari A. Clark and Mary E. Pandrea Revocable Trust on April 9, 2002, of which Clark and Pandrea were co-trustees. The remaining allegations contained in paragraph 6 are denied in that Plaintiff has failed to plead sufficient facts to identify the "Property," the approximate 15 acre parcel, the approximate 5 acre parcel, and further essential facts sufficient for Defendant to respond.

1.7 In response to paragraph 7 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the 15 acre parcel, the 5 acre parcel, and further essential facts sufficient for Defendant to respond.

1.8 In response to paragraph 8 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.9 In response to paragraph 9 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

1.10 In response to paragraph 10 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.11 In response to paragraph 11 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, Defendant therefore denies said allegations and demands strict proof thereof.

1.12 In response to paragraph 12 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

1.13 In response to paragraph 13 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Property and further essential facts sufficient for Defendant to respond.

1.14 In response to paragraph 14 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.15 In response to paragraph 15 of Plaintiff's Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and Defendant therefore denies said allegations and demands strict proof thereof.

1.16 In response to paragraph 16 of Plaintiff's Complaint, Defendant realleges and incorporates the responses to the above allegations as if set forth fully herein.

1.17 In response to paragraph 17 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Property and further essential facts sufficient for Defendant to respond.

1.18 In response to paragraph 18 of Plaintiff's Complaint, Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Property and further essential facts sufficient for Defendant to respond.

1.19 Answering paragraph 19 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

1.20 Answering the second paragraph numbered 17 (Plaintiff's Complaint contains two paragraphs numbered 17) of Plaintiff's Complaint (under Count Two – Accounting) Defendant realleges and incorporates the responses to the above allegations as if set forth fully herein.

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

1.21 Answering the second paragraph 18 (Plaintiff's Complaint contains two paragraphs numbered 18) of Plaintiff's Complaint (under Count Two – Accounting) Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

1.22 Answering the second paragraph 19 (Plaintiff's Complaint contains two paragraphs numbered 19) of Plaintiff's Complaint (under Count Two – Accounting) Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

1.23 Answering the second paragraph 20 (Plaintiff's Complaint contains two paragraphs numbered 20) of Plaintiff's Complaint (under Count Two – Accounting) Defendant denies the allegations contained therein in that Plaintiff has failed to plead sufficient facts to identify the Trust and further essential facts sufficient for Defendant to respond.

II.

AFFIRMATIVE DEFENSES

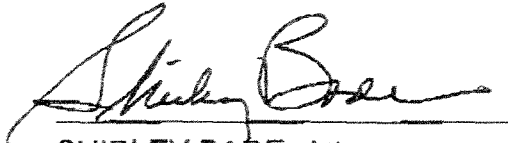
In response to Plaintiff's Complaint for Partition and Accounting, Defendant pleads the following affirmative defenses:

- 2.1 Plaintiff has failed to state a claim under which relief can be granted.
- 2.2 Plaintiff's claims are barred by her failure to mitigate damages.
- 2.3 Plaintiff's claims are barred by mutual or unilateral mistake.
- 2.4 Plaintiff's claims are barred under the doctrine of quasi-estoppel.
- 2.5 Plaintiff's claims are barred under the doctrine of ratification.
- 2.6 Plaintiff's claims are barred by the statute of frauds.
- 2.7 Plaintiff's claims against Defendant are barred by the doctrine of unclean hands, waiver and/or estoppel.
- 2.8 Defendant reserves the right to assert additional affirmative defenses as warranted by ongoing discovery.

WHEREFORE, Defendant requests judgment against Plaintiff as follows:

1. That Plaintiff take nothing by her complaint, which should be dismissed with prejudice.
2. That Plaintiff be ordered to pay all of Defendant's reasonable costs and attorneys' fees incurred in defending this action;
3. That the court provide for such other and further relief as it may deem just and equitable.

DATED: June 28th, 2011



SHIRLEY BADE, Attorney
For the KARI A. CLARK
REVOCABLE TRUST,
Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of June 2011, I served a true and correct copy of the foregoing **ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING** by the method indicated below, and addressed to the following:

Douglas S. Marfice
Ramsden & Lyons, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile: 208-664-5884

Mary Cameron
Name:

ANSWER TO COMPLAINT FOR PARTITION AND ACCOUNTING

STATE OF IDAHO } ss
County of Bonner
FILED July 5, 2011
AT 4:00 O'CLOCK PM
CLERK, DISTRICT COURT
ap
Deputy

Kari A. Clark
204 Johnson
Sutherlin, OR 97479
Defendant

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

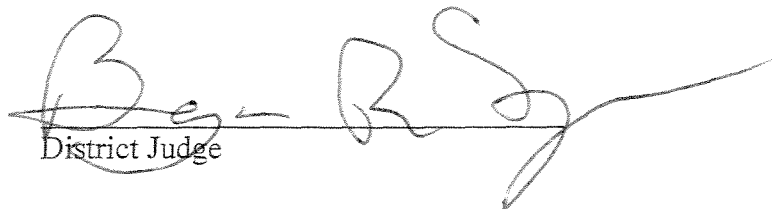
MARY E. PANDREA, a single woman,	)	Case No: CV11-00835
)	
Plaintiff,	)	ORDER TO DISQUALIFY JUDGE
)	
vs.)	
)	
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark Trust U/A Dated June 21, 2010;)	
)	
Defendant.)	

The Court, having before it Defendant's Motion to Disqualify the Honorable Benjamin R. Simpson; NOW, THEREFORE:

IT IS HEREBY ORDERED that the Honorable Benjamin R. Simpson is hereby disqualified in the above-entitled matter.

IT IS HEREBY FURTHER ORDERED that this case shall be reassigned to a different District Judge.

DATED this 24 day of June 2011.


District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6 day of ~~June~~ ^{July} 2011, I caused to be served in the following manner a true and correct copy of the foregoing:

ORDER TO DISQUALIFY JUDGE

Douglas S. Marfice Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiffs</i>	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
Kari A. Clark 204 Johnson Sutherlin, OR 97479	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile:

*faxed to
Judge Mitchell
7-06-11*

A. Phillips
Deputy Clerk of the Court

STATE OF IDAHO
 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

2011 JUL 12 P 1:01

MARY E. PANDREA,

Plaintiffs,

vs

KARI A CLARK, a single woman
 Individually and as Trustee of the Kari A.
 Clark Trust U/A Dated June 21, 2010;

Defendant.

) MARIE SCOTT
) CLERK DISTRICT COURT

CASE NO. CV2011-835

ORDER OF REASSIGNMENT

The Honorable **Benjamin R. Simpson** having been disqualified pursuant to Idaho
 Rule 40(d)(1) in the above matter now,

IT IS HEREBY ORDERED that the above matter is assigned to the Honorable
John P. Luster, District Judge, for the disposition of any pending and further proceeding.

IT IS FURTHER ORDERED that the following alternate judges are hereby
 assigned to preside in this case Lansing L. Haynes, John T. Mitchell, Charles W. Hosack
 and George R. Reinhardt, III.

DATED this 12th day of July, 2011.

John T. Mitchell
 John T. Mitchell
 Administrative District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 12 day of July, 2011, a true and correct copy of the foregoing
 was sent via facsimile, U.S. Mail, or interoffice mail to the following:

Douglas S. Marfice, PO Box 1336, Coeur d'Alene ID 83814/1336
Shirley Bode, 408 Sherman Ave, Ste 207, Coeur d'Alene ID 83814

CLERK OF THE DISTRICT COURT, By A. Phillips
 Deputy Clerk

ORDER OF REASSIGNMENT: 1
 CV

0079

cc: Judge Mitchell ✓
 Judge Luster ✓

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 SEP -7 A 9:37

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

**STIPULATION FOR FILING OF
AMENDED COMPLAINT**


COMES NOW Mary E. Pandrea, through her counsel of record, Douglas S. Marfice, Kari A. Clark, individually, *pro se*, and the Kari A. Clark Trust U/A Dated June 21, 2010, through its counsel of record, Shirley Bade, and stipulate as follows:

1. To Plaintiff's filing of an Amended Complaint.

This Stipulation is made for purposes of filing an Amended Complaint including an omitted Exhibit (legal descriptions).


DATED this 7th day of July, 2011.

RAMSDEN & LYONS, LLP

By: 
For Douglas S. Marfice, Of the Firm
Attorneys for Plaintiff

DATED this 6th day of ~~July~~ ^{Sept}, 2011.

SHIRLEY BADE LAW FIRM, P.C.

By: 
Shirley Bade, Of the Firm
Attorney for Kari A. Clark Trust

DATED this 22nd ^{August} day of ~~July~~, 2011.

By: Kari A. Clark, Pro Se
Kari A. Clark, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of July, 2010, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

~~Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814~~

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Ramsden & Lyons, LLP
Fax 208-664-5884 ✓

Mary Cameron
~~Shannon James~~ Mary Cameron

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 SEP 23 P 4:14

MARIE SUTTON
CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.


Case No. CV-11-835

ORDER TO AMEND COMPLAINT

The foregoing Stipulation for Filing of Amended Complaint having duly and regularly
come before this Court, and good cause appearing therefore,

IT IS HEREBY ORDERED AND THIS DOES ORDER that the above-named
Plaintiff's *Amended* Complaint for Partition and Accounting is hereby filed *nunc pro tunc*.

DATED this 23 day of September, 2011.


The Honorable Benjamin R. Simpson
District Court Judge

ORDER TO AMEND COMPLAINT - 1

Received Time Sep. 21, 2011 3:19PM No. 2243

0082

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of September, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

____ US Mail
____ Overnight Mail
____ Hand Delivered
____ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

____ US Mail
____ Overnight Mail
____ Hand Delivered
____ Facsimile

Douglas S. Marfice
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

____ US Mail
____ Overnight Mail
____ Hand Delivered
____ Facsimile (208) 664-5884

Deputy Clerk

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072

STATE OF IDAHO
County of Bonner } ss
FILED Sept 23 2011
AT 4:10 O'CLOCK PM
CLERK, DISTRICT COURT
Deputy ap

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

**AMENDED COMPLAINT FOR
PARTITION AND ACCOUNTING**

COMES NOW the above-named Plaintiff, by and through her counsel of record, Ramsden & Lyons, LLP, and for a cause of action against the above-named Defendants, complains and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, at all times relevant to this action, was a resident of the State of Washington and is the owner as a tenant in common with Defendant Kari A. Clark of certain real property located in Bonner County, Idaho. Said property is more particularly described in **Exhibit A** hereto (hereafter the "Property").

2. Defendant Kari A. Clark, at all times relevant to this action, was a resident of the State of Oregon and is the owner as a tenant in common with Plaintiff of the Property.

3. The Property that is the subject of this action is located in Bonner County, Idaho and thus venue is proper in Bonner County, Idaho pursuant to Idaho Code § 5-401.

4. This Court has jurisdiction pursuant to Idaho Code § 1-705.

GENERAL ALLEGATIONS

5. Plaintiff and Defendant are siblings.

6. On April 9, 2002, Kari A. Clark (Defendant "Clark") and Mary E. Pandrea (Plaintiff "Pandrea") created the Kari A. Clark and Mary E. Pandrea Revocable Trust ("Clark/Pandrea Trust"), of which Pandrea and Clark were co-trustees. The Clark/Pandrea Trust became the record holder of title to two properties relevant hereto, which are commonly referred to as 4687 Upper Pack River Road, Sandpoint, Idaho, therein as the "Property" and attached hereto as **Exhibit A**. The properties consisted of an approximate 15 acre parcel and an approximate 5 acre parcel with a log cabin, log shop and other improvements. These properties were conveyed to the Clark/Pandrea Trust by Pandrea and Clark who owned them as tenants in common.

7. On June 21, 2010, Clark, as co-trustee of the aforementioned Clark/Pandrea Trust, unilaterally conveyed 100% of the interest in the 15 acre parcel to herself, an individual or as trustee of the "Kari A. Clark Revocable Trust" ("Clark Trust"). Also on June 21, 2010, as co-trustee of the Clark/Pandrea Trust, Clark unilaterally conveyed an undivided one-half interest in the 5 acre parcel to herself, individually or as trustee of the

Clark Trust and the other one-half undivided interest in said 5 acre parcel to Pandrea, an individual, via quitclaim deeds.

8. On or about June 21, 2010, Clark purported to “dissolve” the Clark/Pandrea Trust via the above-mentioned “conveyances.”

9. Since June 21, 2010, Pandrea and Clark have held the 5 acre parcel of property as tenants in common.

10. Since June 21, 2010, Clark, individually or as trustee of the Clark Trust has been the record holder of title to 100% of the interest in the 15 acre parcel of property, although, in fact, the 15 acre parcel is also held as tenancy in common by Pandrea and Clark pursuant to the terms of the Clark/Pandrea Trust and by operation of law.

11. Prior to June 21, 2010, Pandrea paid the necessary costs to care for, improve and maintain the Property and the improvements thereon, including, but not limited to, the annual payment of property taxes; physical improvements such as a well; cabin renovation; tree planting/maintenance, and the like. Clark or the Clark Trust have not materially contributed to or reimbursed Pandrea for, these expenses.

12. By purporting to unilaterally convey the Property held in the Clark/Pandrea Trust, Clark and the Clark Trust have effectively terminated the Clark/Pandrea Trust and all tenancy in common interests previously transferred to the Clark/Pandrea Trust escheat to tenancy in common interests upon dissolution of the Clark/Pandrea Trust.

13. In November and December of 2010, Pandrea paid for and obtained appraisals and a Comparative Market Analysis of the Property. Clark or the Clark Trust did not share in or reimburse Pandrea for the expense of said appraisals or the Comparative Market Analysis.

14. On December 21, 2010 and again on February 10, 2011, Pandrea offered to purchase Defendant(s) undivided interest in the Property for an amount that is substantially more than 50% of the value reflected by the appraisals and the Comparative Market Analysis. Defendant(s) has not accepted the offer nor has Defendant(s) shown any interest in engaging in any negotiation.

15. Pandrea and Defendant(s) interests and plans for the Property are divergent and cannot be reconciled without the involvement of this Court.

COUNT ONE – ACTION FOR PARTITION

16. Plaintiff re-alleges each and every allegation in Paragraphs 1 through 15 as if fully set forth herein.

17. Pandrea desires to terminate the tenancy in common with the Defendant(s) according to the respective rights of each tenant in common. There are no other tenants in common or any other owners of the Property except for Pandrea and the Defendant(s).

18. Given the inherent, natural characteristics of the Property, a physical partition cannot be made without great prejudice to the owners, and thus a partition by sale is appropriate.

19. Pandrea has been forced, due to the actions and inactions of the Defendant(s), to engage the services of legal counsel to protect her rights and will incur legal expenses including costs and attorney's fees.

COUNT TWO – ACCOUNTING

20. Plaintiff re-alleges each and every allegation in Paragraphs 1 through 19 as if fully set forth herein.

21. Pandrea demands that the Defendant(s) account for the proceeds of the Clark/Pandrea Trust as the assets of said Trust.

22. Defendant(s) has unilaterally retained or exercised dominion over assets properly belonging to the Clark/Pandrea Trust and has not made an accounting to Pandrea.

23. Pandrea is entitled to an accounting of the Clark/Pandrea Trust with respect to the assets of said Trust and the final distribution of those assets.

WHEREFORE, Plaintiff requests judgment against Defendants as follows:


1. For partition by sale of the Property with the proceeds of the sale being divided evenly between the parties, *after* all reasonable offsets are subtracted from the proceeds and awarded to the entitled party pursuant to an accounting of the same.

2. For attorney's fees and costs pursuant to I.C. §12-120 or I.C. § 12-121. In the event of a default in this action, a reasonable attorney's fee is \$3,500.00 plus the cost of services to procure the appraisals and the Comparative Market Analysis.

3. Such other and further relief as the Court deems proper.

DATED this 14 day of September, 2011.

RAMSDEN & LYONS, LLP

By: 
Douglas S. Marfice, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of September, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

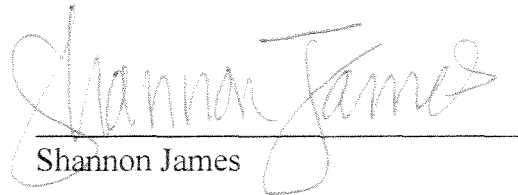

Shannon James

EXHIBIT A to the Complaint

The real properties of record, located in Bonner County, Idaho and legally described as:

Parcel 1 (approximately 5 acres):

A tract of land located in Section 11, Township 59 North, Range 2 West, Boise Meridian, Bonner County, Idaho, more fully described as follows:

Commencing at the Southeast corner of said Section 11; thence N.0 degrees 58'55" E. along the east line of said Section 11 a distance of 1325.42 feet; thence W. a distance of 1978.63 feet to the point of beginning; thence N.27 degrees 57'08" W. a distance of 448.04 feet; thence N.0 degrees 01'23" W. a distance of 225.00 feet; thence S. 70 degrees 01'23" E. a distance of 245.00 feet; thence S.46 degrees 01'23" E. a distance of 375.00 feet; thence S.18 degrees 32'25" E. a distance of 195.54 feet; thence S.59 degrees 26'55" E. a distance of 302.20 feet to the westerly right-of-way of the country road; thence southwesterly along the right-of-way of the country road to the thread of Pack River; thence northwesterly along the thread of Pack River to a point that is S.27 degrees 57'08" E. of the point of beginning; thence N.27 degrees 57'08" W. to the point of beginning.

Subject to a 30.0 foot easement for a road right-of-way and utilities, more fully described as follows:

A tract of land for a road easement located in Section 11, Township 59 North, Range 2 West, Boise Meridian, Bonner County, Idaho, said road easement being 30.0 feet wide (15.0 feet each side of the centerline), the centerline being more fully described as follows:

Commencing at the southeast corner of said Section 11; thence N.0 degrees 58'55" E. along the east line of said section a distance of 1325.42 feet; thence west a distance of 1978.63 feet; thence N.27 degrees 57'08" W. a distance of 448.04 feet to the point of beginning; thence S.59 degrees 03'17" E. a distance of 637.22 feet; thence S.58 degrees 03'22" E. a distance of 300.0 feet more or less to the westerly right-of-way of the Pack River County Road.

LESS that portion lying Southeasterly of the centerline of Tavern Creek.

Parcel 2 (approximately 15 acres):

A tract of land located in Section 11, Township 59 North, Range 2 West of the Boise Meridian, Bonner County, Idaho, more fully described as follows:

Commencing at the South Quarter corner of said Section 11; thence North 00 degrees 55'33" East along the North-South centerline of said Section 11 a distance of 1313.53 feet to the point of beginning; thence North 00 degrees 55'33" East a distance of 1313.53 feet; thence North 89 degrees 58'35" East a distance of 1014.58 feet to the centerline of a creek; thence Southwesterly along the centerline of said creek a distance of approximately 250.00 feet, said point being South 41 degrees 58'38" West a distance of 254.43 feet from the last called point; thence South 00 degrees 00'40" East a distance of 116.62 feet; thence North 81 degrees 43'37" West a distance of 122.52 feet; thence South 4 degrees 16'49" East a distance of 142.00 feet; thence South 59 degrees 43'07" East a distance of 273.79 feet; thence South 21 degrees 16'18" East a distance of 244.00 feet; thence South 21 degrees 23'33" East a distance of 223.83 feet; thence South 34 degrees 04'05" West a distance of 256.10 feet; thence North 18 degrees 32'25" West a distance of 195.54 feet; thence North 46 degrees 01'23" West a distance of 375.00 feet; thence North 70 degrees 01'23" West a distance of 245.00 feet; thence South 00 degrees 01'23" East a distance of 225.00 feet; thence South 62 degrees 01'08" West a distance of 290.00 feet more or less to the thread of Pack River; thence Southeasterly along the thread of Pack River to a point that is South 89 degrees 57'04" East of the point of beginning; thence North 89 degrees 57'04" West a distance of 330.00 feet more or less to the point of beginning.

LESS that portion lying West of the centerline of Pack River.

TOGETHER WITH and subject to a 30.0 foot easement for a road right-of-way and utilities on existing road as surveyed or to be surveyed

SUBJECT TO: Right of the State of Idaho in and to the portion, if any, of the property herein described which lies below the line of ordinary high water of the Pack River

RAMSDEN & LYONS, LLP
 700 Northwest Blvd.
 P.O. Box 1336
 Coeur d'Alene, ID 83816-1336
 Telephone: (208) 664-5818
 Facsimile: (208) 664-5884
 Douglas S. Marfice, ISB #4072
 Theron J. De Smet, ISB #8184

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2011 OCT -6 P 4:24

MARIE SCOTT
 CLERK DISTRICT COURT
ap
 DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
 individually and as Trustee of the Kari A.
 Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

ORDER TO AMEND COMPLAINT

The foregoing Stipulation for Filing of Amended Complaint having duly and regularly
 come before this Court, and good cause appearing therefore,

IT IS HEREBY ORDERED AND THIS DOES ORDER that the above-named
 Plaintiff's Amended Complaint for Partition and Accounting is hereby filed *nunc pro tunc*.

DATED this 5th day of ~~September~~ *October*, 2011.

John Patrick Luster
 The Honorable ~~Benjamin R. Simpson~~ John Patrick Luster
 District Court Judge

ORDER TO AMEND COMPLAINT - 1

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 6 day of October, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☒ Facsimile

Douglas S. Marfice
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 664-5884

A. Phillips
Deputy Clerk

ORDER TO AMEND COMPLAINT - 2

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 OCT 12 A 10:54
MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

ORDER TO AMEND COMPLAINT

The foregoing Stipulation for Filing of Amended Complaint having duly and regularly come before this Court, and good cause appearing therefore,

IT IS HEREBY ORDERED AND THIS DOES ORDER that the above-named Plaintiff's Amended Complaint for Partition and Accounting is hereby filed *nunc pro tunc*.

DATED this 5th day of ~~September~~ ^{October}, 2011.


The Honorable Benjamin R. Simpson John Patrick Luster
District Court Judge

ORDER TO AMEND COMPLAINT - 1

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of September, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

____ US Mail
____ Overnight Mail
____ Hand Delivered
____ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

____ US Mail
____ Overnight Mail
____ Hand Delivered
____ Facsimile

Douglas S. Marfice
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

____ US Mail
____ Overnight Mail
____ Hand Delivered
____ Facsimile (208) 664-5884

Deputy Clerk

ORDER TO AMEND COMPLAINT - 2

Charles B. Lempesis, ISBA #2550
CHARLES B. LEMPESIS, CHTD
Attorney at Law
West 201 Seventh Avenue
Post Falls, Idaho 83854
Telephone: (208) 777-8815
Facsimile: (208) 773-1044

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 OCT 13 A 10:46

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Mediator

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA

Plaintiff

v.

KARI A. CLARK, et al.


Defendants

CASE NO. CV 2011-835

ACKNOWLEDGMENT PURSUANT TO
RULE 16(k)(7) IRCP REGARDING
CASE STATUS/MEDIATION

COMES NOW, CHARLES B. LEMPESIS, Attorney at Law, and reports to the Court pursuant to Rule 16(k)(7) of the Idaho Rules of Civil Procedure that Mediation of the above captioned matter was held on the 5th day of October, 2011, conducted by CHARLES B. LEMPESIS, and that said mediation did not result in a resolution of the matter.

DATED this 12th day of October, 2011.


CHARLES B. LEMPESIS
Attorney at Law

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of OCTOBER, 2011, I served a true and correct copy of the foregoing as follows:

to:

Douglas Marfice, Esquire
Ramsden & Lyons
P. O. Box 1336
Coeur d'Alene, ID 83816-1336

Via:

☒ U. S. Mail
☐ Facsimile
☐ Personal Delivery

Shirley Bade, Esquire
418 East Coeur d'Alene Avenue
Coeur d Alene, ID 83814

Via:

☒ U. S. Mail
☐ Facsimile
☐ Personal Delivery



CHARLENE BEAMER
Assistant to CHARLES B. LEMPESIS

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 OCT 19 A 9:50

MARIE SCOTT
CLERK DISTRICT COURT
Jh
DEPUTY

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

Kari A. Clark
204 Johnson
Sutherlin, OR 97479
Defendant/Counterclaimant in Pro Se, as an individual

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,	)	Case No: CV11-00835
)	
Plaintiff,	)	ANSWER TO AMENDED
	)	COMPLAINT FOR PARTITION AND
vs.	)	ACCOUNTING AND
	)	COUNTERCLAIM
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark Trust U/A Dated June 21, 2010;)	
)	
Defendant.)	
<hr/>		
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark Trust U/A Dated June 21, 2010;)	
)	
Counterclaimant,)	
)	
vs.)	
)	
MARY E. PANDREA, a single woman)	
individually and as Trustee of The Kari A.)	
Clark and Mary E. Pandrea Revocable)	
Trust dated April 9, 2002.)	
)	
Counter Defendant.)	
<hr/>		

I.

ANSWER

COMES NOW Defendant KARI A. CLARK, (hereinafter "Defendant" or "Clark"), in answer to the allegations in Plaintiff's Amended Complaint for Partition and Accounting, allege as follows:

1.1 In response to paragraph 1 of Plaintiff's Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to whether Plaintiff Mary E. Pandrea (hereinafter "Plaintiff" or "Pandrea") was or is a resident of the State of Washington and, therefore, denies the same. Defendant admits the remainder of paragraph 1.

1.2 In response to paragraph 2 of Plaintiff's Amended Complaint, Defendant admits the allegations contained therein.

1.3 In response to paragraph 3 of Plaintiff's Amended Complaint, Defendant admits the allegations contained therein.

1.4 In response to paragraph 4 of Plaintiff's Amended Complaint, Defendant admits the allegation contained therein.

1.5 In response to paragraph 5 of Plaintiff's Amended Complaint, Defendant admits the allegation contained therein.

1.6 In response to paragraph 6 of Plaintiff's Amended Complaint, Defendant admits the allegations contained therein.

1.7 In response to paragraph 7 of Plaintiff's Amended Complaint, Defendant admits that pursuant to paragraph 9.2 of The Kari A. Clark and Mary E. Pandrea Revocable Trust dated April 9, 2002 ("Clark/Pandrea Trust"), Defendant as Trustor conveyed an undivided one-half interest in the approximate 5 acre parcel (hereinafter sometimes referred to as the "Pandrea Parcel") to herself, individually or as trustee of the Kari A. Clark Revocable Trust, u/a June 21, 2010 ("Clark Trust") and the other one-half undivided interest in said 5 acre parcel to Pandrea, an individual, via a quitclaim deed. Defendant additionally admits that pursuant to paragraph 9.2 of the

Clark/Pandrea Trust, Defendant as Trustor conveyed 100% of the interest in the 15 acre parcel (hereinafter sometimes referred to as the "Clark Parcel"), to herself individually or as trustee of the Clark Trust. On July 19, 2011, Clark executed a Correction Deed to transfer one-half interest in the Clark Parcel to Pandrea and one-half interest to the Clark Trust. This deed was recorded in Bonner County, Idaho on August 5, 2011 as Instrument No. 813590.

1.8 In response to paragraph 8 of Plaintiff's Amended Complaint, Defendant admits that pursuant to paragraph 9.2 of the Clark/Pandrea Trust" that she revoked the Clark/Pandrea Trust. Defendant denies the remaining allegations of paragraph 8.

1.9 In response to paragraph 9 of Plaintiff's Amended Complaint, Defendant admits the allegation contained therein.

1.10 In response to paragraph 10 of Plaintiff's Amended Complaint, Defendant denies the allegation contained therein.

1.11 In response to paragraph 11 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

1.12 In response to paragraph 12 of Plaintiff's Amended Complaint, Defendant admits that the Clark/Pandrea Trust has been effectively terminated. Defendant is without knowledge or information sufficient to form a belief as to the truth as to the remaining allegations contained therein and, therefore, denies the same.

1.13 In response to paragraph 13 of Plaintiff's Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, therefore, denies the same.

1.14 In response to paragraph 14 of Plaintiff's Amended Complaint, Defendant admits that since December 21, 2010, she has not accepted any offers from Plaintiff to purchase any interest in any property owned by Defendant but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein and, therefore, denies the same.

1.15 In response to paragraph 15 of Plaintiff's Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, therefore, denies the same.

1.16 In response to paragraph 16 of Plaintiff's Amended Complaint, Defendant incorporates the responses to the above allegations as if set forth fully herein.

1.17 In response to paragraph 17 of Plaintiff's Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence and, therefore, denies the same. Defendant admits the allegations contained in the second sentence.

1.18 In response to paragraph 18 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

1.19 In response to paragraph 19 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

1.20 In response to paragraph 20 of Plaintiff's Amended Complaint, Defendant incorporates the responses to the above allegations as if set forth fully herein.

1.21 In response to paragraph 21 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

1.22 In response to paragraph 22 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

1.23 In response to paragraph 23 of Plaintiff's Amended Complaint, Defendant denies the allegations contained therein.

II.

AFFIRMATIVE DEFENSES

In response to Plaintiff's Amended Complaint for Partition and Accounting, Defendant pleads the following affirmative defenses.

2.1 Plaintiff has failed to state a claim under which relief can be granted.

2.2 The remedy Plaintiff has demanded in the above entitled action is vitiated by the Clark/Pandrea Trust.

2.3 Partition by sale of the Property at issue in this matter by sale cannot be had without material injury to the Defendant.

2.4 Partition in kind of the Property is possible without great prejudice to the parties and partition by sale of the Property is not necessary.

2.5 Plaintiff's claims are barred by the doctrine of laches.

2.6 Plaintiff's claims are barred by the statute of frauds.

2.7 Plaintiff's claims are barred by her failure to mitigate damages.

2.8 Plaintiff's claims are barred by mutual or unilateral mistake.

2.9 Plaintiff's claims are barred under the doctrine of quasi-estoppel.

2.10 Plaintiff's claims are barred under the doctrine of ratification.

2.11 Plaintiff's claims against Defendant are barred by the doctrine of unclean hands, waiver and/or estoppel.

2.12 Plaintiff's claims are barred by the implied waiver of the right to partition by sale the Property at issue in this matter.

2.13 Plaintiff's claims are barred by the doctrine of unfairness.

2.14 Defendant reserves the right to assert additional affirmative defenses as warranted by ongoing discovery.

III.

COUNTERCLAIM – ACTION FOR PARTITION

3.1 Paragraphs 1.1 through 2.14 are hereby incorporated by reference as though fully set forth herein.

3.2 On or about February 13, 1980, Pandrea became owner of the Pandrea Parcel, consisting of approximately 5 acres, by way of Warranty Deed recorded in Bonner County, Idaho as Instrument No. 226223 on March 27, 1980. The parcel was deeded to her by her parents' trust, the Harry F. and Edith E. Clark Trust.

3.3 On or about February 16, 1981, Pandrea conveyed to Clark as tenant in common a one-half interest in the Pandrea Parcel by way of a Quitclaim Deed recorded in Bonner County, Idaho as Instrument No. 240369 on April 7, 1981.

3.4 On or about August 29, 1991, Counterclaimant Clark purchased from the Harry F. and Edith E. Clark Trust for a price of \$15,000.00 the Clark Parcel, consisting of approximately 15 acres. The parcel was conveyed to her by way of Warranty Deed recorded in Bonner County, Idaho as Instrument No. 396781 on October 17, 1991.

3.5 On or about November 10, 1992, Clark conveyed to Pandrea as tenant in common a one-half interest in the Clark Parcel by way of a Quitclaim Deed recorded in Bonner County, Idaho as Instrument No. 416380 on December 1, 1992.

3.6 On April 9, 2002, Clark and Pandrea created the Clark/Pandrea Trust, of which Clark and Pandrea were co-trustees. Clark and Pandrea conveyed their respective rights in the Clark Parcel and the Pandrea Parcel to the Clark/Pandrea Trust.

3.7 Clark has paid and contributed to all necessary costs of maintaining the property held by the Clark/Pandrea Trust consisting of the Clark Parcel and the Pandrea Parcel (the "Property") and has paid taxes on the Property.

3.8 Pandrea has harvested timber from the Property and otherwise obtained profits from the Property without the consent of Clark. Pandrea has not shared any profits made from the Property with Clark and has not provided an accounting to Clark for profits made from the Property.

3.9 Pandrea has prevented Clark from accessing and enjoying the Property in violation of the provisions of the Clark/Pandrea Trust. She has installed locks on the structures located on the Property including on the gate providing entrance to the Property and on the doors of the old log house located on the Property, which was the childhood home of the parties. She had not provided keys to the locks to Clark.

3.10 The Clark/Pandrea Trust provided a provision for revocation of the trust. Pursuant to that provision, Clark revoked the trust on July 14, 2010.

3.11 The Clark/Pandrea Trust provided that, upon revocation, the community property of the trust was to return to being held by both of the Trustors as it was held prior to the creation of the trust. On June 21, 2010, Clark transferred one-half interest in the Pandrea Parcel to Pandrea and one-half interest to the Clark Trust by way of Quitclaim Deed recorded in Bonner County, Idaho on July 12, 2010 as Instrument No. 795211. On June 21, 2010, Clark inadvertently transferred all interest in the Clark Property to the Clark Trust by way of a Quitclaim Deed recorded in Bonner County, Idaho on July 12, 2010 as Instrument No. 795212. On July 19, 2011, Clark executed a Correction Deed to transfer one-half interest in the Clark Parcel to Pandrea and one-half interest to the Clark Trust. This deed was recorded in Bonner County, Idaho on August 5, 2011 as Instrument No. 813590.

3.12 Both the Clark Parcel and the Pandrea Parcel were previously owned by the parties' parents since approximately 1947. The parcels are situated where the parties' family farm was located and where the parties grew up and spent their childhood. The properties hold great sentimental value for Clark.

3.13 The Property consists of two lots totaling over 20 acres. The Property is divisible and the two lots which make up the Property were previously separately owned by the parties, one lot was owned by Clark and one by Pandrea. A partition in kind can be made. Because of Clark's strong affinity for the Property, a sale of the Property would greatly prejudice Clark.

3.14 Clark desires to terminate the tenancy in common with Pandrea of the respective rights of each tenant in common.

3.15 Clark has been forced to engage the services of legal counsel to protect her rights, to gain access to the Property from which Pandrea has ousted her, and to defend against this action brought by Pandrea. Clark will continue to incur legal expenses including costs and attorney's fees as a result of the actions of Pandrea.

IV.

COUNTERCLAIM – ACCOUNTING

4.1 Paragraphs 1.1 through 3.15 are hereby incorporated by reference as though fully set forth herein.

4.2 Counter Defendant Pandrea has unilaterally retained or exercised dominion over assets properly belonging to the Clark/Pandrea Trust and has not made an accounting to Clark.

4.3 Clark is entitled to an accounting of the Clark/Pandrea Trust pursuant to the terms of the trust and Clark demands that Counter Defendant Pandrea account for the proceeds, including receipts and disbursements of the Clark/Pandrea Trust.

WHEREFORE, Defendant/Counterclaimant Clark requests judgment against Plaintiff/Counter Defendant Pandrea as follows:

1. That Plaintiff takes nothing by her complaint, which should be dismissed with prejudice.
2. That Plaintiff's request for partition of the Property by sale be denied.
3. That Defendant/Counterclaimant's request for partition of the Property in kind be granted.
4. That Plaintiff/Counter Defendant account to Defendant/Counterclaimant for the proceeds, including receipts and disbursements of the Clark/Pandrea Trust.
5. That Judgment be entered against Plaintiff/Counter Defendant for her respective share of sums expended by Defendant/Counterclaimant in purchasing and maintaining the Property, with statutory interest from the date of each expenditure.
6. For appointment of referee(s) for the purpose of determining a partition of the Property according to the respective rights of the parties.
7. That Plaintiff/Counter Defendant be ordered to pay all of Defendant/Counterclaimant's reasonable costs and attorney's fees incurred in this action pursuant to Idaho attorney fee provisions, including but not limited to I.C. § 12-120 and I.C. § 12-121.

8. For such other relief as the Court deems just and proper.

Dated this 17th day of October 2011.

Kari A. Clark

Kari A. Clark, individually
Defendant/Counterclaimant

Shirley Bade

Shirley Bade
Attorney for Defendant/Counterclaimant
Kari A. Clark as Trustee of the Kari A.
Clark Trust U/A dated June 21, 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of October, 2011, I caused to be served in the following manner a true and correct copy of the foregoing:

**ANSWER TO AMENDED COMPLAINT FOR PARTITION AND ACCOUNTING
AND COUNTERCLAIM**

Douglas S. Marfice	<input type="checkbox"/>	U.S. Mail, Postage Prepaid
Ramsden & Lyons, LLP	<input type="checkbox"/>	Hand Delivered
P.O. Box 1336	<input type="checkbox"/>	Overnight Mail
Coeur d'Alene, ID 83816-1336	<input checked="" type="checkbox"/>	Facsimile: 208-664-5884
Phone: 208-664-5818		
Fax: 208-664-5884		
Attorney for Plaintiff		

Mary Cameron

Description		BONNER CV 2011-835 PANDREA V. CLARK 20111024 STATUS CONFERENCE	
		Judge John Patrick Luster Clerk Kathy Booth Court Reporter Anne MacManus Brownell	
		PA Theron Desmet DA Shirley Bade	
Date	10/24/2011	Location	1K-COURTROOM1
Time	Speaker	Note	
03:43:20 PM	J	Calls case - PA and DA present in court	
03:43:35 PM	PA	Requests trial setting	
03:43:39 PM	DA	My clients are from out-of-town request trial after the snow season	
03:43:55 PM	J	MAY 30, 2012 2 DAY COURT TRIAL + PTO	
03:44:40 PM			
03:44:40 PM	End		

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0107

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 NOV 15 A 10:43

CHARIE SCOTT
CLERK DISTRICT COURT

DEPUTY

Attorneys for Plaintiff/Counter Defendant Mary Pandrea

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of The Kari A.
Clark and Mary E. Pandrea Revocable Trust
dated April 9, 2002,

Counter Defendant.

Case No. CV-11-835

REPLY TO COUNTERCLAIM

I.

ANSWER

Plaintiff and Counter Defendant, Mary E. Pandrea (hereafter "Pandrea"), by and through her attorneys of record, Ramsden & Lyons, LLP, respond to the Counterclaim as follows:

FIRST DEFENSE

Counterclaimant's counterclaim violates IRCP 12(b)(8) insofar as it alleges the same causes of action set forth in Plaintiff's Complaint.

GENERAL DENIAL

Pandrea denies each and every allegation contained in the Counterclaim, unless expressly and specifically admitted herein.

1. As to paragraph 3.1 of the Counterclaim, neither an admission nor a denial is necessary.

2. As to paragraph 3.2 of the Counterclaim, Pandrea admits the conveyance identified in Instrument Number 226223, records of Bonner County, State of Idaho, is a conveyance and was executed by the means and on the date represented therein. (This approximate 5-acre parcel shall hereinafter be referred to as the Clark/Pandrea 5-acre parcel).

3. As to paragraph 3.3 of the Counterclaim, Pandrea admits that the Clark/Pandrea 5-acre parcel was conveyed by the means and on the date represented in Instrument Number 240369, records of Bonner County, State of Idaho.

4. As to paragraph 3.4 of the Counterclaim, Pandrea admits the conveyance identified in Instrument Number 396781, records of Bonner County, State of Idaho, is a conveyance and was executed by the means and on the date represented therein. (This

approximate 15-acre parcel shall hereinafter be referred to as the Clark/Pandrea 15-acre parcel).

5. As to paragraph 3.5 of the Counterclaim, Pandrea admits that the Clark/Pandrea 15-acre parcel was conveyed by the means and on the date represented in Instrument Number 416380, records of Bonner County, State of Idaho.

6. As to paragraph 3.6 of the Counterclaim, Pandrea admits the first sentence. As to the remaining averments, Pandrea admits that Clark and Pandrea conveyed their respective rights in the Clark/Pandrea 5-acre parcel and Clark/Pandrea 15-acre parcel to the Kari A. Clark and Mary E. Pandrea Revocable Trust (hereafter the "Clark/Pandrea Trust"). The combined property held by the Clark/Pandrea Trust is hereafter referred to as the "Clark/Pandrea Property."

7. As to paragraph 3.7 of the Counterclaim, Pandrea denies that Clark has paid or contributed to all necessary costs of maintaining the Clark/Pandrea Property.

8. As to paragraph 3.8 of the Counterclaim, Pandrea admits that many years ago, a minimal number of trees were removed from the Clark/Pandrea Property due to bug infestation and consequent danger imposed by the close proximity of the trees to the house and shop. Pandrea denies that she ever realized any profits from the removal of the trees.

9. As to paragraph 3.9 of the Counterclaim, Pandrea denies.

10. As to paragraph 3.10 of the Counterclaim, Pandrea admits that the Clark/Pandrea Trust has revocation provisions. Pandrea further admits that on or around June 21, 2010, Clark purported to dissolve the Clark/Pandrea Trust.

11. As to paragraph 3.11 of the Counterclaim, Pandrea admits the first sentence. Pandrea further admits that the conveyances identified in Instrument Numbers 795211,

795212 and 813590, records of Bonner County, State of Idaho, are conveyances and were executed by the means and on the dates represented therein. The remaining averments are denied.

12. As to paragraph 3.12 of the Counterclaim, is without sufficient knowledge or information to determine the sentimental value that the Clark/Pandrea Property has to Clark. Pandrea admits the remaining averments contained in paragraph 3.12 of the Counterclaim.

13. As to paragraph 3.13 of the Counterclaim, Pandrea admits that the Clark/Pandrea Property is approximately 20-acres and at times was *legally recognized* as being composed of two separate parcels, the Clark/Pandrea 5-acre parcel and the Clark/Pandrea 15-acre parcel. Pandrea further admits that at all times relevant to this partition action the two parcels have been managed and used in a collective manner. Pandrea specifically denies that a physical partition in kind can be made, due to the inherent, natural and unique characteristics of the Clark/Pandrea Property and the familial relationship between Clark and Pandrea. The remaining averments are denied.

14. As to paragraph 3.14 of the Counterclaim, Pandrea is without sufficient knowledge or information to form a belief as to the truth of the allegations set forth therein, but Pandrea desires to terminate any existing tenancy in common or equitable/resulting trust in the Clark/Pandrea Property.

15. As to paragraph 3.15 of the Counterclaim, Pandrea denies.

16. As to paragraph 4.1 of the Counterclaim, Pandrea incorporates the admissions and denials to paragraphs 1.1 thru 3.15 above.

17. As to paragraph 4.2 of the Counterclaim, Pandrea denies.

18. As to paragraph 4.3 of the Counterclaim, Pandrea admits that the Trust Agreement for the Clark/Pandrea Trust and Idaho law provides for a procedure to request an accounting of the Trust. Pandrea denies that Clark has ever heretofore requested an accounting of the Trust. The remaining averments are denied.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Counterclaim fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Counterclaimant has waived, or by her conduct, is estopped from asserting the causes of action contained in the Counterclaim.

THIRD DEFENSE

Counterclaimant is barred from recovery in whole or in part for failure to mitigate damages.

FOURTH DEFENSE

Counterclaimant assumed the risk of the events, occurrences and damages alleged in their Counterclaim.

FIFTH DEFENSE

Counterclaimant's claims are barred by the equitable doctrine of unclean hands.

SIXTH DEFENSE

Counterclaimant's claims, or some of them, are barred by application of the Statute of Limitations, including but not limited to Idaho Code §§ 5-216, 5-217, 5-218 and 5-224.

SEVENTH DEFENSE

Counterclaimant's damages, if any, were proximately caused by the negligence or other wrongful conduct of other third persons, and any breach of duty on the part of Counter Defendant, if any, was not a proximate cause of the alleged loss to the Counterclaimant. In asserting this defense, Counter Defendant does not admit any negligence, and to the contrary, deny all allegations of negligence or other blameworthy conduct.

EIGHTH DEFENSE

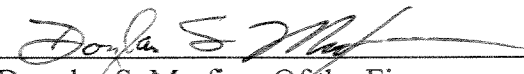
Counter Defendant hereby reserves the right to assert additional answers, including any affirmative defense(s) that may be determined applicable in the future by discovery in this matter.

WHEREFORE, Counter Defendant Pandrea prays for judgment as follows:

1. That Counterclaimant Clark take nothing by this action, and that the Counterclaim be dismissed with prejudice;
2. For an award of costs and attorney fees pursuant to Idaho Code § 12-120(1), (2) and (3), 12-121, and other law; and
3. For such other and further relief as the Court may grant.

DATED this 14th day of November, 2011.

RAMSDEN & LYONS, LLP

By: 
Douglas S. Marfice, Of the Firm
Attorneys for Plaintiff/Counter Defendant

CERTIFICATE OF SERVICE

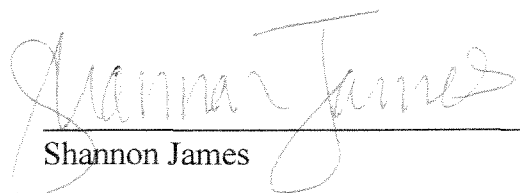
I hereby certify that on the 14th day of November, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2011 NOV 16 P 1:43

MARNE SCOTT
CLERK DISTRICT COURT
DEPUTY

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

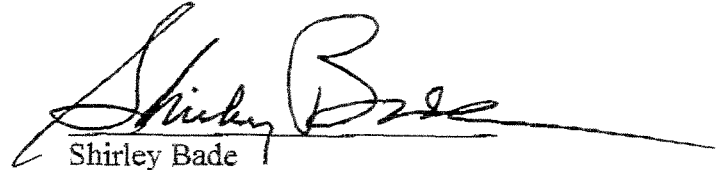
Case No: CV11-00835

**DEFENDANT/COUNTERCLAIMANT'S
NOTICE OF SERVICE OF REQUESTS
FOR ADMISSIONS, ANSWERS TO
INTERROGATORIES, AND
PRODUCTION OF DOCUMENTS, SET
ONE UPON PLAINTIFF/COUNTER
DEFENDANT MARY E. PANDREA**

PLEASE TAKE NOTICE that on November 10, 2011 a copy of **DEFENDANT/ COUNTERCLAIMANT'S REQUESTS FOR ADMISSIONS, ANSWERS TO INTERROGATORIES, AND PRODUCTION OF DOCUMENTS, SET ONE** was served by the undersigned by hand-delivering a copy of same to the office of Douglas Marfice, the attorney for Plaintiff/Counter Defendant Mary Pandrea, and leaving a copy with the receptionist at the following address:

Ramsden & Lyons, LLP
700 Northwest Boulevard
Coeur d'Alene, Idaho 83816

DATED this 14th day of November, 2011.

A handwritten signature in black ink, appearing to read "Shirley Bade", with a long horizontal line extending to the right.

Shirley Bade
*Attorney for Defendant/Counterclaimant
Kari A. Clark as Trustee of the Kari A.
Clark Trust U/A dated June 21, 2010*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of November 2011, I caused to be served in the following manner a true and correct copy of the foregoing:

**DEFENDANT/COUNTERCLAIMANT'S
NOTICE OF SERVICE OF REQUESTS FOR ADMISSIONS, ANSWERS TO
INTERROGATORIES, AND PRODUCTION OF DOCUMENTS, SET ONE UPON
PLAINTIFF/COUNTER DEFENDANT MARY E. PANDREA**

Douglas S. Marfice Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile: 208-664-5884
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Mary E. Pandrea

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 DEC 13 / A 9:44

MARY E. PANDREA
CLERK, DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

NOTICE OF SERVICE

PLEASE TAKE NOTICE that the above-named Defendant/Counterclaimant was served with Plaintiff's Responses to Defendant's Requests for Admissions in accordance with Rule 5, Idaho Rules of Civil Procedure.

DATED this 9th day of December, 2011.

RAMSDEN & LYONS, LLP

By: 

Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

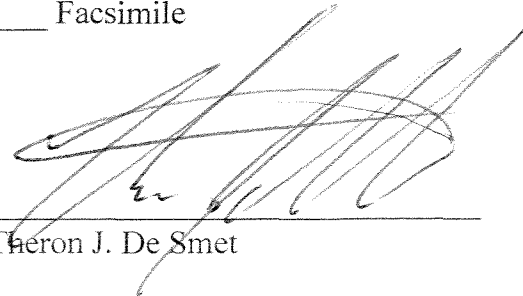
I hereby certify that on the 9th day of December, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Theron J. De Smet

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 DEC 29 A 9:58

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**NOTICE OF SERVICE OF
DISCOVERY RESPONSES**

TO: CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN that on the 21st day of December, 2011, that Plaintiff, by and through her attorney, Theron J. De Smet of the firm Ramsden & Lyons, LLP did serve a true and correct copy of Plaintiff's Answers and Responses to Defendant's Interrogatories and Production of Documents Set One, together with a copy of this Notice, upon counsel for Defendant by hand-delivering the same to the address listed below.

DATED this 21st day of December, 2011.

RAMSDEN & LYONS, LLP

By: 
Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

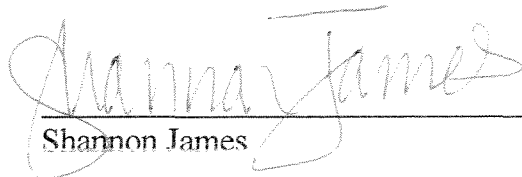
I hereby certify that on the 21 day of December, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☒ US Mail
☐ Overnight Mail
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☒ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2011 DEC 30 A 10:20

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

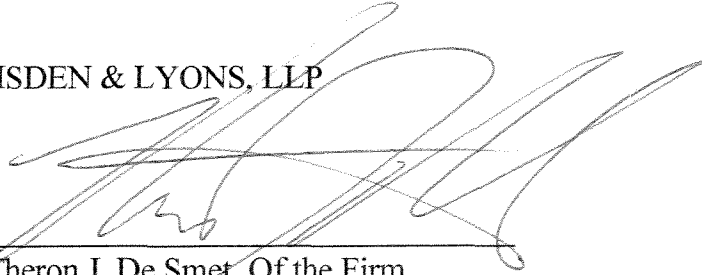
**NOTICE OF SERVICE OF
DISCOVERY REQUESTS**

TO: CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN that on the 30th day of December, 2011, that Plaintiff, by and through her attorney, Theron J. De Smet of the firm Ramsden & Lyons, LLP did serve a true and correct copy of Plaintiff's First Set of Interrogatories and Production of Documents to Defendant, together with a copy of this Notice, upon counsel for Defendant by facsimile and/or depositing the same in the United States Mail, Coeur d'Alene, Idaho, postage pre-paid.

DATED this 30th day of December, 2011.

RAMSDEN & LYONS, LLP

By: 
Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE


I hereby certify that on the 30th day of December, 2011, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☒ US Mail
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Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 JAN -4 A. 9:58

CLERK OF DISTRICT COURT
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

NOTICE OF COMPLIANCE

NOTICE IS HEREBY GIVEN, pursuant to the Court's Uniform Pretrial Order entered in this matter on November 2, 2011, that Plaintiff/Counter Defendant Mary Pandrea, by and through her attorneys of record, Ramsden & Lyons, LLP, disclosed her expert witnesses.

DATED this 3rd day of January, 2012.

RAMSDEN & LYONS, LLP

By:


Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

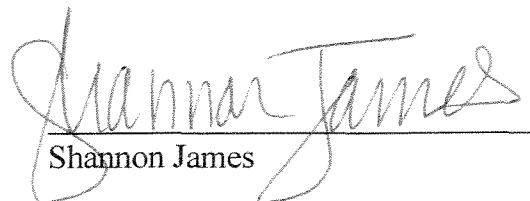
I hereby certify that on the 3rd day of January, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☒ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
DISTRICT 7
2012 JAN 30 A 11:30
MARIE SCOTT
CLERK DISTRICT COURT
DEPT. 1

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

NOTICE OF COMPLIANCE

NOTICE IS HEREBY GIVEN, pursuant to the Court's Uniform Pretrial Order entered in this matter on November 2, 2011, that Plaintiff/Counter Defendant Mary Pandrea, by and through her attorneys of record, Ramsden & Lyons, LLP, served her *Supplemental* Expert Witness Disclosure.

DATED this 26th day of January, 2012.

RAMSDEN & LYONS, LLP

By: 

Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE


I hereby certify that on the 26th day of January, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 FEB -7 P 2:30

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

Case No: CV11-00835

**NOTICE OF SERVICE OF
DEFENDANT/COUNTERCLAIMANTS'
RESPONSE TO PLAINTIFF/COUNTER
DEFENDANT'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Notice of Service of Defendant's Discovery Responses

PLEASE TAKE NOTICE that on February 6, 2012 **DEFENDANT/**
COUNTERCLAIMANTS' RESPONSE TO PLAINTIFF/COUNTER DEFENDANT'S
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS was served by the undersigned by hand-delivering a copy of same to the office
of Theron J. DeSmet, the attorney for Plaintiff/Counter Defendant Mary Pandrea, and leaving a
copy with the receptionist at the following address:

Ramsden & Lyons, LLP
700 Northwest Boulevard
Coeur d'Alene, Idaho 83816

DATED this 6th day of February 2012.



Shirley Bade
Attorney for Defendant/Counterclaimant
Kari A. Clark as Trustee of the Kari A.
Clark Trust U/A dated June 21, 2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of February 2012, I caused to be served in the following manner a true and correct copy of the foregoing

NOTICE OF SERVICE OF DEFENDANT/COUNTERCLAIMANTS' RESPONSE TO PLAINTIFF/COUNTER DEFENDANT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Douglas S. Marfice Theron J. DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Margaret Lane

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DIST.

2012 MAR -5 A 10:31

CLERK OF DISTRICT COURT

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

) Case No: CV11-00835

)
) **NOTICE OF COMPLIANCE WITH**
) **PRETRIAL ORDER RE**
) **DEFENDANT/COUNTERCLAIMANTS'**
) **EXPERT WITNESS DISCLOSURE**

Notice of Compliance

PLEASE TAKE NOTICE that on March 1, 2012 a copy of **DEFENDANT/**
COUNTERCLAIMANTS' EXPERT WITNESS DISCLOSURE was served by the
undersigned by delivering a copy of same via facsimile to the office of attorney for Plaintiff/
Counter Defendant as follows:

Douglas S. Marfice
Theron J. DeSmet
Ramsden & Lyons, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Phone: 208-664-5818
Fax: 208-664-5884

DATED this 5th day of March 2012.



Shirley Bade

*Attorney for Defendant/Counterclaimant
Kari A. Clark as Trustee of the Kari A.
Clark Trust U/A dated June 21, 2010*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of March 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

**NOTICE OF COMPLIANCE WITH PRETRIAL ORDER RE
DEFENDANT/COUNTERCLAIMANTS' EXPERT WITNESS DISCLOSURE**

Douglas S. Marfice Theron J. DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile: 208-664-5884
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Mary Camero

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue.
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

STATE OF IDAHO
COUNTY OF BONNER
DISTRICT COURT
2012 APR -4 P 1:47
CLERK DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

Case No: CV11-00835

**NOTICE OF HEARING OF
DEFENDANT/COUNTER
CLAIMANT'S MOTION TO
CONTINUE TRIAL**

DATE: April 25, 2012
TIME: 4:00 p.m.
JUDGE: Honorable John P. Luster
Kootenai County District Court
5500 Government Way
Coeur d'Alene, Idaho

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

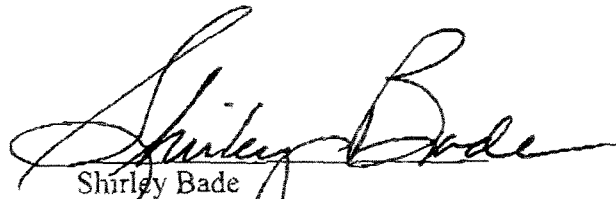
Counter Defendant.

Notice of Hearing

TO: CLERK OF THE ABOVE-ENTITLED COURT
AND TO: PLAINTIFF MARY PANDREA AND HER COUNSEL OF RECORD

NOTICE IS HEREBY GIVEN that on **Wednesday, April 25, 2012 at 4:00 p.m.**,
Defendant/Counter Claimant KARI A. CLARK will bring on for hearing, before the Honorable
John P. Luster, District Judge, Kootenai County District Court, 5500 Government Way, Coeur
d'Alene, Idaho, her Motion to Continue Trial.

DATED this 4th day of April 2012.


Shirley Bade
*Attorney for Defendant/Counterclaimant
Kari A. Clark as Trustee of the Kari A.
Clark Trust U/A dated June 21, 2010*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of April 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

**NOTICE OF HEARING OF DEFENDANT/COUNTER CLAIMANT'S
MOTION TO CONTINUE TRIAL**

Douglas S. Marfice Theron J. DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
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Mary Cameron

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 APR 11 P 3:13

CLERK OF DISTRICT COURT
DEPT. 1

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

Case No: CV11-0835

**DEFENDANT/COUNTERCLAIMANT'S
MOTION TO CONTINUE TRIAL**

DEFENDANT'S MOTION TO CONTINUE TRIAL

INTRODUCTION

COMES NOW Defendant/Counter Claimant KARI A. CLARK (“Defendant” or “Clark”), by and through her counsel, Shirley Bade, and respectfully moves the Court for an order granting Defendant/ Counter Claimant’s Motion to Continue Trial.

This case concerns the partition of real property jointly owned by the Plaintiff/Counter Defendant MARY E. PANDREA (“Plaintiff” or “Pandrea”) and the Defendant. The Plaintiff requests in her complaint that the Court partition the parties’ jointly-owned real property, which consists of approximately 20 acres of land, by forcing a sale of the property; whereas in her counterclaim, the Defendant requests the Court partition the real property in kind.

FACTS

1. The Plaintiff and the Defendant in this matter are sisters who jointly own two adjoining parcels of rural property in Bonner County. One parcel is approximately five acres and the other parcel is approximately 15 acres. The five-acre parcel was acquired by the Plaintiff in the early 1980s, and the Plaintiff deeded an undivided one-half interest in the property to the Defendant shortly thereafter. The 15-acre parcel was acquired by the Defendant in the early 1990s, and the Defendant deeded an undivided one-half interest in the property to the Plaintiff shortly thereafter. These two parcels contain the family farm, old log home and log outbuildings that were built by the parties’ father and is where the parties grew up in the 1940s and 1950s. The parties purchased these parcels on the family farm after the death of their father from a trust set up by their parents. (Affidavit of Kari A. Clark filed herewith, ¶ 3.)

2. The Plaintiff filed her complaint for partition on May 11, 2011 and filed her amended complaint on October 3, 2011, wherein she requests that the Court partition the parties’ real property by sale with the proceeds of the sale being divided between the parties. The Defendant filed her answer to the amended complaint and her counterclaim on October 19, 2011, wherein she requests that the Court deny Plaintiff’s partition of the property by sale and grant the her request for partition of the property in kind.

DEFENDANT’S MOTION TO CONTINUE TRIAL

3. The Defendant has a great attachment and loving regard for the parties' real property due to the fact that it is where she spent her childhood years and because it contains the old log buildings built by her father whom she adored. Because of her family's history and attachment to this land and due to its serene setting along the Pack River and amongst abundant natural beauty, it is a place where she finds solace and peace. The property is irreplaceable to her. For these reasons and because of the amount of acreage involved and the fact that the parcels remain separate legal parcels that were originally held separately by the parties, it is possible to partition the property in kind and she believes the Court should not order the property sold. She believes the Court should instead allow the parties to return the parcels to their ownership as originally held. (Clark Aff. ¶ 4).

4. In response to discovery requests in this matter, the Plaintiff has produced two appraisals that she had commissioned on the parties' real property in November and December 2010. One of the appraisals valued the parties' real property at \$100,000 and the other valued the property at \$165,000. (Affidavit of Shirley Bade filed herewith, ¶ 3).

5. The Defendant is a single woman, 71 years old with a very limited income, and is struggling to find the means to pay her legal fees in this matter. The costs of trial are virtually prohibitive for her. Defending against this lawsuit has stretched her financial resources to an extent that she is having difficulty paying for her everyday necessary living expenses yet because she values the property that is the subject of litigation so much, she is committed to defending her right to keep her property. (Clark Aff. ¶ 5).

6. The Plaintiff, Mary Pandrea was sued in Spokane County, Washington in 2010 by the Estate of Edith Clark (Spokane Superior Court Case No. 10-2-02042-4). (Affidavit of Ethel M. Boyd filed herewith, ¶ 3). Edith Clark is the mother of both Plaintiff and Defendant and the Defendant has, thus, been kept apprised of the status of the lawsuit. (Clark Aff. ¶ 6). On March 16, 2012, the Court in that matter granted a partial summary judgment in favor of the Estate of Edith Clark. The Court found that Pandrea had breached her fiduciary duty by taking a gift from

Edith Clark and that Pandra owes the estate \$100,000. Trial on remaining issues in that matter is scheduled to begin on April 9, 2012. The Estate is requesting pre-judgment interest and attorney's fees and costs in that matter as well. It is possible that a judgment in excess of \$200,000 could issue in that case. The Personal Representative of the Estate of Edith Clark has made known her intention to obtain a sister state judgment in Idaho on any judgment obtained in the Washington matter and to record any judgment obtained against Pandrea's real property that is the subject of the instant action. It is expected that such judicial lien will attach to Pandrea's real property prior to the trial date in the instant matter of May 30, 2012. (Boyd Aff. ¶¶ 4-8).

7. In light of the fact that a judgment exceeding the Plaintiff's equity in the parties' real property is likely to be recorded prior to the trial date of May 30, 2012, the Defendant is very aware of the fact that this change in circumstances could impact not only Plaintiff's desire that the Court could order a sale of the property because it appears that Plaintiff would then receive nothing from the sale, but it could also be a factor this Court would consider as to whether to partition the property by sale or in kind. (Clark Aff. ¶ 7).

8. The Defendant (and presumably the Plaintiff as well) will incur substantial legal fees and costs in preparing for trial. Postponing trial would make sense because it is nonsensical that the parties should waste their precious financial resources preparing for a trial that may no longer be necessary. (Bade Aff. ¶ 4).

9. Plaintiff Mary Pandrea has engaged the services of a team of attorneys with substantial experience in real property litigation. (Bade Aff. ¶ 5). The Defendant has not previously been involved in litigation and turned to the only Idaho attorney with whom she had a relationship to assist her in defending this lawsuit when she was served with the complaint and then received a letter from Plaintiff's counsel threatening to take her default. (Clark Aff. ¶ 8). Her current attorney, Shirley Bade, previously assisted the Defendant in revoking a trust, removing liens Plaintiff Pandrea had recorded against Defendant Clark's share of the parties'

real property, and assisting the Defendant in obtaining keys to locks Pandrea had placed the parties' real property. (Bade Aff. ¶ 6).

10. Although Ms. Bade's legal practice is limited exclusively to business, estate planning, and mediation services, she agreed to assist the Defendant in filing an answer to the complaint to avoid a default and to also assist her in attempting to resolve the matter in good faith through mediation. At the time the Defendant retained Ms. Bade to provide these legal services, Ms. Bade informed the Defendant that should the matter not settle, it would be necessary to retain a litigation attorney to represent her in the trial of the matter in order to receive adequate representation. (Bade Aff. ¶ 6).

11. The parties engaged in mediation to settle this matter but mediation was unsuccessful. As it has become apparent that this matter appears to be destined for trial, the Defendant has been seeking an attorney to represent her in trying the case, but has experienced difficulties in this endeavor because of her lack of financial resources. She is continuing to seek skilled counsel. (Clark Aff. ¶ 10).

ARGUMENT

1. **The trial court has discretion as to whether to grant or deny a motion for continuance.**

"The decision whether to grant a motion to continue is within a trial court's sound discretion." *State v. Tapia*, 127 Idaho 249, 255 (1995).

In *State v. Richardson*, 95 Idaho 446, 448 (1973), the Supreme Court of Idaho stated that because "[t]here are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process[, t]he answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied."

2. **In the interests of justice and judicial economy the Court should grant Defendant's request to continue trial because imminent events could change the course of the lawsuit and possibly make trial unnecessary.**

DEFENDANT'S MOTION TO CONTINUE TRIAL

In this case, the circumstances presented are that the imminent recording of a judicial lien against the real property that is the subject of the instant partition action will likely change the course of this litigation and render a trial unnecessary or, in the case trial continues even with the recording of such judicial lien against the real property, the effects such a lien may have would likely provide an important consideration for the Court in ruling how to partition the real property.

The reason why this could be an important consideration is because while the Plaintiff desires that the Court order the parties' jointly-owned real property sold and then divide the proceeds among the parties, the Defendant desires that the property be partitioned in kind. Courts favor a division in kind whenever practicable. 4 Pomeroy's Equity Juris. (3d Ed.) § 1390. The property consists of two legal separate parcels and is approximately 20 acres in size. It is divisible. It appears that the judicial lien that will likely soon be recorded against the Plaintiff's interest in the property will absorb all the Plaintiff's pecuniary interest in the property. The Defendant would then have a much greater interest in the property than the Plaintiff. If the property were then sold, Plaintiff's share of the proceeds would be used to pay the judgment against her and Defendant would have lost her beloved property that has been a part of her for nearly 70 years. The Defendant should be able to retain at least a portion of her beloved property and if the Plaintiff wishes to sell her share of it, which could likely be absorbed by the pending judicial lien, that would make the most sense.

In the interest of justice, the Court should postpone the trial to allow time for these events to play out so it can be seen how this would affect the Court's decision in the matter.

- a. Idaho law provides that a partition for sale can be made only if it appears that a partition in kind cannot be made without great prejudice to the owners and, thus, Plaintiff's potential loss of all pecuniary interest in the property is a significant consideration in the Court's determination in this matter, making a continuation of trial until such interests can be determined a reasonable reason to continue trial.

I.C. 6-501 explains when partition of a property may be had in Idaho:

DEFENDANT'S MOTION TO CONTINUE TRIAL

When several cotenants hold and are in possession of real property as parceners, joint tenants or tenants in common, in which one (1) or more of them have an estate of inheritance, or for life or lives, or for years, an action may be brought by one (1) or more of such persons for a partition thereof, according to the respective rights of the persons interested therein, and for a sale of such property, or a part thereof, if it appears that a partition cannot be made without great prejudice to the owners.

Idaho law provides that a partition for a sale can be made if it appears that a partition [in kind] cannot be made without great prejudice to the owners. In this case, the party who desires that the real property be sold could actually lose all of her equity in the property if the property is sold because it appears that a judicial lien in a sum exceeding her interest will be forthwith recorded against the property, thereby defeating any benefit she could receive by forcing a sale of the property.

In the case of *Andrews v. Grover*, 66 Idaho 742, 168 P.2d 821 (1946), the Idaho Supreme Court discusses what is meant by “great prejudice.” And in defining “great prejudice,” in the *Andrews* case, the Court defers to the definition provided in the Washington State case of *Williamson Inv. Co. v. Williamson*, 96 Wash. 529, 165 P. 385 (1917). In the *Williamson* case posed the same question that faces this Court. There, the Washington Supreme Court stated, “This is an action for partition. The question is whether the land should be sold or divided in kind.” *Id.* at 529. In discussing the necessary considerations in deciding this question, the Court stated:

‘The law favors partition of land among tenants in common, rather than a sale thereof and a division of the proceeds, and it is only when the land itself cannot be partitioned that a sale may be ordered.’ *Kloss v. Wylezalek*, 207 Ill. 328, 69 N.E. 863, 99 Am. St. Rep. 220.

It is still recognized that an owner has the right to retain his inheritance or investment in the form in which he has it, so long as it can be done without great prejudice to his cotenant.

‘The power to convert real estate into money against the will of the owner, is an extraordinary and dangerous power, and ought never to be exercised unless the necessity therefor is clearly established.’ *Vesper v. Farnsworth*, 40 Wis. 357.

Id. at 535.

It should be emphasized that “[t]he power to convert real estate into money against the will of the owner, is an extraordinary and dangerous power, and ought never to be exercised unless the necessity therefor is clearly established.” In the case at hand, the Court should not rush to make such a determination since the recording of the judicial lien will likely remove any consideration that there would be any “necessity” to convert the parties’ real estate into money.

The *Williamson* Court also laid out what It considers to be “fundamental guiding principles in all cases” as “clearly expressed by the Supreme Court of Appeals of West Virginia.” That court stated that:

‘In any case such sale may be made if the parties are all adults and consent thereto. But the court has no right to decree a sale without their consent, unless it finds: First, that partition in kind cannot be conveniently made; and, second, that the interests of the parties owning the land will be promoted by a sale. These two requisites are conditions imposed by the statute which alone confers upon a court of equity the power to make a sale at all. They are important and indispensable conditions. The statute is an innovation upon the common law, taking away from the owner the right to keep his freehold, and converting his home into money. That must not be done except in cases of imperious necessity. It is a legislative alteration of a canon of the law which forms part of the substructure of our jurisprudence. Forcible conversion of property into money is avoided wherever possible.’ *Croston v. Male*, 56 W.Va. 205, 49 S.E. 136, 107 Am. St. Rep. 918.

Id. at 536, 537. (Emphasis added).

A logical question here is: Why should the Defendant in this matter be forced to lose her property by a forced sale when she desires to retain her property and the Plaintiff would lose all she could have potentially gained by such a sale due to her judicial lien? The Court should postpone the trial to see if indeed this will become an important consideration.

Thus, in the interests of justice, it makes sense for the Court to grant the Defendant’s request for a continuance.

3. **To protect the due process rights of the Defendant, it would be proper for the Court to continue trial to allow Defendant time to obtain an attorney capable of adequately representing her rights at trial.**

Defendant Clark desires to change counsel in order to retain an attorney who specializes in real property litigation. Defendant is presently seeking new counsel. If Defendant must continue to trial with her present attorney who exclusively practices in the areas of business and estate planning, she would be at a distinct disadvantage in light of the fact that Plaintiff Pandrea's counsel specialize in real estate litigation.

For this additional reason, the Court should allow a trial continuance.

CONCLUSION

Defendant Clark requests that this Court grant her request to postpone the trial to allow time to discover what impact the judicial lien that appears likely to be recorded forthwith against the Plaintiff's interests in the parties' subject real property will have on this matter and whether it would even still be necessary to proceed with a trial. Granting her motion makes judicial sense in light of the fact that it could prevent the parties from making unnecessary expenditures on trial preparation.

Defendant Clark additionally requests the Court grant her request to postpone trial to allow her time to find suitable representation for trial because her current attorney's practice does not include real property law or litigation. Granting her motion would protect her rights of due process.

The Court has discretion to grant Defendant's motion and, in this case, should do so. Continuing the trial would not adversely affect either party but going forward with trial on May 30, 2012 could harm the Defendant as discussed herein.

Respectfully submitted,

DATED this 10th day of April 2012.



Shirley Bade

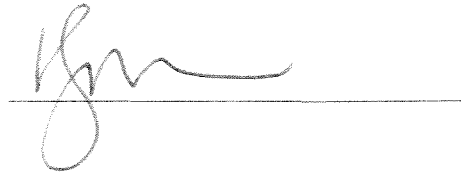
*Attorney for Defendant/Counterclaimant Kari A.
Clark as Trustee of the Kari A. Clark Trust U/A
dated June 21, 2010*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of April 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

DEFENDANT/COUNTERCLAIMANT'S MOTION TO CONTINUE TRIAL

Douglas S. Marfice Theron DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
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DEFENDANT'S MOTION TO CONTINUE TRIAL

Page 529

96 Wash. 529 (Wash. 1917)

165 P. 385

WILLIAMSON INV. CO.

v.

WILLIAMSON.

No. 13666.

Supreme Court of Washington

May 29, 1917

Department 2.

Appeal from Superior Court, Spokane County; E. H. Sullivan, Judge.

Action by the Williamson Investment Company against Mabel C. Williamson. From a decree confirming partition made by referees, plaintiff appeals. Affirmed.

[165 P. 386] Voorhees & Canfield, of Spokane, for appellant.

Wellington D. Rankin, of Helena, Mont., and Sam H. Cone, of Spokane, for respondent.

ELLIS, C.J.

This is an action for partition. The question is whether the land should be sold or divided in kind.

The property is described as lot 20, block 8, Havermale's addition to Spokane Falls, now Spokane. It is located on the north side of Main avenue, between Brown and Barnard streets, in the business district of the city. It has a frontage of 50 feet on Main avenue and a depth of 90 feet to the north. It is owned in undivided moieties by the parties to this action as tenants in common. It is adjoined on the east by lot 21 of the same dimensions and in the same block. Many years ago the then owner of lot 20 and the [165 P. 387] then owner of lot 21 erected a two-story wooden building covering both lots. The building had a common entrance on the line between the two lots giving access to the second story. Sixteen years ago Volney D. Williamson, president of the plaintiff corporation, became the owner of lot 20, and another owner acquired lot 21. The building was an old building at that time. A few years later the common entrance was closed, and a wooden partition wall cutting the original building into two was run through on the line between lots 20 and 21. Thereafter the two buildings

were operated as separate buildings, the main entrance to that on lot 20 being placed in the middle of the Main avenue or front wall, with a stairway leading to the second story. The ground floor consists of two storerooms. The upper floor is fit only for a cheap rooming or lodging house. The upper hallway, office, laundry, and rooms are so arranged that a partition and double stairway could not be run through on the middle line of lot 20

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so as to make two separate buildings without prohibitive expense. At the time of the trial the west storeroom was rented for a small monthly rental. The other storeroom was vacant. The upper story was rented at a monthly rental of about \$40. It is admitted that the income from the building is hardly sufficient to carry the taxes and insurance, and that the rent is being continually reduced in order to keep the building tenanted at all. Three of plaintiff's witnesses somewhat indefinitely valued the building at from \$1,500 to \$3,000, though all of them admitted that it added little or nothing to the value of the lot, and that its only value was as an aid in carrying the property till the lot shall be used by the erection thereon of modern improvements as business property. Two witnesses for defendant and the three referees in partition appointed by the court testified that the building had little or no value, and, in substance, that the property would sell as readily, and for as much, without the building as with it. From the whole evidence it is plain that the building is an old wooden shell, badly out of repair and not worth repairing. Props have been placed in the rear, presumably to keep it from falling. On the part of the city officials there have been threats, or at least talk, of condemning it. One of the referees, a practical contractor and builder of 40 years' experience, who said he had examined the building critically, testified as follows:

'As a matter of fact this property can be partitioned without any great prejudice to the owners. I do not consider the building of any value. I will have to answer that way. If it was a good building, I would say it hurts it. But I consider the lot as though the building was not there. Independent of the question of the times, it would not be any great prejudice to cut the lot in two, not particularly, but then, as a rule, you can sell 50 feet better than you can 25 feet, but there is no great detriment on that property, because very often some one wants 25 feet, but I prefer 50 feet myself. That would be owing to the buyer. As to the condition

Page 532

of the building, can the stenographer spell 'rotten'? It is in bad shape. It is gradually rotting down. The back timbers or studding are all rotten on the bottom. They put these braces up for fear it might fall--these braces on the

back. I don't know if it would fall, but it looks bad. The plumbing is in bad shape. They do not use the bathroom at all, they use the sink and toilet; and the plastering is all broken down, and lathing exposed, and paper and all off, and I would think the building was ready to be condemned, myself; I think it's worthless.'

As to the value of the lot, one of plaintiff's witnesses, an architect, expressed the opinion that it was worth at the time of the trial about \$20,000; that he thought there was then a market for it at that price; that the real estate market was then much depressed, and that in normal times he would consider \$600 a front foot, or \$30,000, a good price. He expressed the further opinion that to cut the lot in two would reduce the aggregate value by 25 per cent. to 30 per cent. Another of plaintiff's witnesses, an experienced real estate man, was of the opinion that a high or boom price for the lot would be \$60,000, a low or 'hard-times' price \$22,000, and the normal value \$30,000; that to cut the lot in halves would reduce the aggregate value by 10 per cent. When asked, in substance, which would result in greater loss to the owners, to divide the property in kind or sell it on the present market, he said it would be a 'toss up' as to which would be advisable, and that 'assuming that one could wait till normal times * * * it would be more prejudicial to sell than to divide.' Still another witness, an architect not acquainted with real estate values in Spokane, expressed the view that a division in kind would depreciate the aggregate value by about 20 per cent. Another real estate dealer placed the values higher and the loss by division at about 33 per cent. He also placed the market value at the time of trial more than one-third below normal value. Of defendant's witnesses, one, a real estate dealer of long experience, was of the opinion that the property

Page 533

could not be sold at the time of the trial for more than 30 per cent. to 50 per cent. of its ordinary normal value. Another experienced real estate agent, who has had this property in his charge for about 3 years, while not expressing himself in terms of percentage, was of the positive opinion that the property could not be sold to advantage on the depressed market existing at the time of trial, and he said:

'As far as that particular property is concerned I would rather have half of it all my own than to have it sold and take half of the money at this time.'

An experienced contractor and builder, who was also one of the referees afterwards appointed by the court to partition the property, who had had 30 years' acquaintance with conditions and relative real estate values in [165 P. 388] Spokane, stated that he would not sell real estate at this time unless forced to do it; that it could not be done without considerable loss, which in

some cases might run as high as 70 per cent.

The trial judge was of the opinion that the building was of little or no permanent value to the property, and that the fact that it could not be advantageously divided should not be permitted to stand in the way of a partition in kind. He found that the property could be divided into equal parts without great prejudice, or any substantial prejudice, to either of the owners, and that it should be so divided and partitioned between the parties without a sale. He accordingly entered an interlocutory decree of partition, appointing three duly qualified and disinterested persons to make the partition, and directing, if they were unable to partition and assign to each of the parties an equal portion, quantity, and quality relatively considered according to their respective rights, without great prejudice to the parties respectively, that they make and file a report to that effect. The referees accordingly partitioned the property, reporting that they had done so without great prejudice to either of the parties, by dividing it into two equal portions, quantity and quality relatively considered, by drawing a straight

Page 534

line from the center point of the north line of the lot to the center point of the south line, and that they had assigned the west half to defendant and the east half to plaintiff. Plaintiff filed exceptions to this report and contested its confirmation. After a full hearing the court entered its final decree confirming the partition as made by the referees. Plaintiff appealed.

Both parties concede that the sole question for the court's determination was whether or not a partition in kind could be made without great prejudice. The appellant throughout took and still takes the negative of this issue, the respondent the affirmative. It is obvious that every case of this character must ultimately depend upon its own peculiar facts. For that reason we have endeavored to set out fairly and fully the purport of the evidence. There are, however, certain broad guiding principles which it may profit to notice.

Where, as here, there are no complications as to the title of either party, either of the tenants in common can demand partition as a matter of right. *Freeman, Cotenancy & Partition* (2d Ed.) § 424; *Moss v. Nye*, 183 Ala. 544, 62 So. 776.

Probable injury to the property, inconvenience, or hardship to either of the parties are not adequate barriers to the assertion of the right, nor valid excuses for material delay in according the remedy. *Wittel v. Wittel*, 82 N. J. Eq. 229, 91 Atl. 722; *Mylin v. King*, 139 Ala. 139, 35 So. 998.

In the original jurisdiction of equity there was no such thing as partition by means of sale, except where all parties were sui juris and consenting. Wanting such capacity and consent, the division was always in kind,

and where the land was incapable of exact or fair division, compensation for the inequality was made by an award of 'owelty of partition.' 4 Pomeroy's Equity Juris. (3d Ed.) §§ 1389, 1390.

The practical inconvenience and frequent inadequacy of this method led to the enactment in England, and in nearly all of the states of the Union, of statutes conferring upon the

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courts power to make partition by sale of the land, when not partible in kind without greater injury than a sale would cause, independently of the consent of the parties. But partition has not lost its original purpose of a division without changing the existing character of the inheritance. The courts still, as formerly, favor a division in kind whenever practicable. 4 Pomeroy's Equity Juris. (3d Ed.) § 1390.

'The law favors partition of land among tenants in common, rather than a sale thereof and a division of the proceeds, and it is only when the land itself cannot be partitioned that a sale may be ordered.' *Kloss v. Wylezalek*, 207 Ill. 328, 69 N.E. 863, 99 Am. St. Rep. 220.

It is still recognized that an owner has the right to retain his inheritance or investment in the form in which he has it, so long as it can be done without great prejudice to his cotenant.

'The power to convert real estate into money against the will of the owner, is an extraordinary and dangerous power, and ought never to be exercised unless the necessity therefor is clearly established.' *Vesper v. Farnsworth*, 40 Wis. 357.

Nearly all of the state statutes, of which that of this state is typical, therefore, condition the power of the court to order a sale upon a finding from evidence that partition in kind cannot be made without 'great prejudice' to the owners. Our statute (Rem. Code, § 838) authorizes actions for partition of property, 'and for sale of such property, or a part of it, if it appear that a partition cannot be made without great prejudice to the owners.' And again section 845 declares:

'If it be alleged in the complaint and established by evidence, or if it appear by the evidence without such allegation in the complaint, to the satisfaction of the court, that the property, or any part of it, is so situated that partition cannot be made without great prejudice to the owners, the court may order a sale thereof, and for that purpose may appoint one or more referees. Otherwise, upon the requisite proofs being made, it shall decree a partition according to

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the respective rights of the parties as ascertained by the court, and appoint three referees therefor, and shall designate the portion to remain undivided for the owners whose interest remain unknown or are not ascertained.'

Construing a statute couched in terms not materially different from ours, an able court has held that the term 'great prejudice to the owners' means material pecuniary loss. The court said:

[165 P. 389]

'So the established test of whether a partition in kind would result in 'great prejudice to the owners' is whether the value of the share of each in case of a partition would be materially less than his share of the money equivalent that could probably be obtained for the whole.' *Idema v. Comstock*, 131 Wis. 16, 110 N.W. 786, 120 Am. St. Rep. 1027.

See, also, to same effect *Vesper v. Farnsworth*, supra.

The Supreme Court of Appeals of West Virginia has clearly expressed what we conceive to be fundamental guiding principles in all cases, though the statute there involved made the criterion 'convenience' instead of great prejudice. That court said:

'In any case such sale may be made if the parties are all adults and consent thereto. But the court has no right to decree a sale without their consent, unless it finds: First, that partition in kind cannot be conveniently made; and, second, that the interests of the parties owning the land will be promoted by a sale. These two requisites are conditions imposed by the statute which alone confers upon a court of equity the power to make a sale at all. They are important and indispensable conditions. The statute is an innovation upon the common law, taking away from the owner the right to keep his freehold, and converting his home into money. That must not be done except in cases of imperious necessity. It is a legislative alteration of a canon of the law which forms part of the substructure of our jurisprudence. Forcible conversion of property into money is avoided wherever possible.' *Croston v. Male*, 56 W.Va. 205, 49 S.E. 136, 107 Am. St. Rep. 918.

See, also, *Roberts v. Coleman*, 37 W.Va. 143, 16 S.E. 482. Pomeroy (section 1390) expresses the same thought

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when he says the power of sale is to be exercised 'whenever it shall appear to the court * * * that a sale would be more beneficial, or less injurious, than an actual division.'

Since by the statute itself the power of the court to order a sale is conditioned upon a showing that great

prejudice would result from a division, there is a presumption that land held in common can be equitably divided according to the interests of the parties, measured by value. The burden of proof to show great prejudice, therefore, rests upon him who asserts it. *East Shore Co. v. Richmond Belt Ry.*, 172 Cal. 174, 155 P. 999; *Mitchell v. Cline*, 84 Cal. 418, 24 P. 164; *Hellier v. Syck*, 147 Ky. 762, 145 S.W. 1110; *Idema v. Comstock*, supra.

In the case before us the burden to show that great prejudice would result from division in kind was upon the plaintiff. In the light of the foregoing well-established principles has this burden been adequately met?

It is first urged that, because the building cannot be advantageously divided, to divide in kind amounts to an order for a destruction of the building, or for the construction of a wall on the dividing line at a cost greater than the value of the building, and that either alternative works great prejudice. But great prejudice means material pecuniary loss, not mere temporary inconvenience or temporary impairment of an income slight in comparison with the value of the property for the uses for which it is suitable. The question is, Should this property, in view of its suitable location for business purposes, be treated as permanently improved property would be treated? It seems to us that where a property worth on a depressed market \$20,000 to \$22,000, and on a normal market \$30,000 to \$37,000, is renting for only \$40 to \$50 a month, and precariously at that, since the evidence shows continual reductions in rent to keep it tenanted at all, it cannot be said to be permanently improved, nor improved at all in any real or controlling sense.

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The building is an old wooden shell so out of repair that it has been propped for safety; the plumbing is antiquated and out of repair; the plastering is off; the lathing is exposed. It is not worth repairing. The court in his findings gave it a value of about \$1,000, but we think the evidence shows this valuation excessive by at least one-half. One cannot read the evidence without being impressed with the view of many of the witnesses that the lots would be worth as much without it as with it. On the facts we agree with the trial court and the referees that this building as an element of value is negligible. The property should be treated for the purpose of division as if it were not there. Its absolute destruction would not be great prejudice in the legal sense of material pecuniary loss.

The further claim that the building on lot 20 cannot be removed without entailing upon the owner of the east half of it the expense of building a wall to sustain the building on lot 21 adjoining it on the east is not supported either by the law or by the preponderance of the evidence. The evidence fails to show that there was ever a continuing party wall agreement of any kind. If there

was any, the burden was upon appellant to show it. We must assume that there was none. In such a case, the only duty of either party who desires to remove his building is to notify the other of that intention, so that the other may do whatever he deems advisable to protect his own building. Thereafter the first party is only liable for a failure to exercise reasonable care in removing his structure. *Clemens v. Speed*, 93 Ky. 284, 19 S.W. 660, 19 L. R. A. 240; *Hieatt v. Morris*, 10 Ohio St. 523, 78 Am. Dec. 280. No law to the contrary is cited, and we know of none as applied to the facts here presented. That no such support would be necessary in any event we think is supported by a preponderance of the evidence. Two of the referees testified that the dividing wall was a double wooden wall. One of them, who seems to us probably the best qualified witness who testified in the case, said:

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'I am a builder and contractor. It is two buildings that were built on lots 20 and 21. They are two buildings. There are two separate supports there. I examined it critically when I was there. There were two six-inch walls. The wall is a foot thick. I went into the dark room and could see through the partition. It is a

[165 P. 390]

window they put through there. Evidently there is a vent there at the top. The building could be removed from the east half without furnishing any support for the building lying on lot 21.'

The evidence to the contrary was vague and uncertain.

It is next urged that to divide the lot would reduce the aggregate value of the halves from 10 per cent. to 30 per cent. below its value as a whole, and that this would be great prejudice. Assuming that this is true, though respondent's witnesses could see no such excessive result, the fact remains that every one of appellant's witnesses who testified on the subject was just as positive that even a greater loss would result from a sale on the existing market, and on this point there was an absolute unanimity of opinion on the part of all the witnesses on both sides. To use the language of Pomeroy, Can such a sale be justly said to be 'more beneficial, or less injurious, than an actual division?' Simply because the aggregate value of the halves would be somewhat less than the value of the whole, must the law on that account force one, or possibly both, of the common owners to change the form of his holding, a thing never favored in law, and forego the value of his investment by selling the entire property at a sacrifice? We think not. But it is argued that the evidence as to the present depressed condition of the real estate market and a probable advance of this land in value was inadmissible and purely speculative. We fail, however, to see that it was more so than the evidence of

loss in value by a division. Both are matters of opinion, and opinion evidence is always admissible on questions of value. In *Craighead v. Pike*, 58 N. J. Eq. 15, 43 Atl. 424, Vice Chancellor Pitney, now Associate Justice of the Supreme Court of the United States, gave to evidence of this character a controlling

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weight. He held that the fact that the property as a body had been on the market for a long time and could not be sold except at great loss was a sufficient reason to divide it in specie.

After all, the question of value in partition suits, as in other cases where it enters, is one resting largely in opinion. The question whether the division of a given piece of property, which is capable of exact division, will result in greater loss than a sale is, in almost every case, essentially a question of opinion. The witnesses in this case were practically at one in the opinion that the building was of little or no moment as an incident of value to this property, either in halves or as a whole. As to the aggregate value of the two halves as compared with the value as a whole they were hopelessly divided. The trial court and the three referees were obviously of the opinion that the difference was slight, since the court found and the referees reported that a division in kind could be made as it was made without prejudice. Though the trial here is one de novo and the findings of the trial court are not binding upon us (Rem. Code, § 1736), they are nevertheless entitled to great weight. This is especially true when, as here, they are supported by the report of the referees. *Freeman, Cotenancy & Partition* (2d Ed.) § 525; *Lang v. Constance* (Ky.) 46 S.W. 693; *Garth's Guardian v. Thompson* (Ky.) 72 S.W. 782; *Parrott v. Barrett*, 81 S. C. 255, 62 S.E. 241. On the whole record we are unable to say that the court's findings are contrary to the preponderance of the evidence.

In the course of the trial the trial judge expressed the view that if he ordered a sale, he should not permit either party to the suit to become a bidder at the sale. In this he was in error, but the error is wholly immaterial, since no sale was ordered. Whether that view influenced him to favor a division in kind can make no difference. Under the law it was his duty to favor such a division in any event, since

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the evidence showed the division practicable and failed to show that great prejudice would result from it.

Some complaint is made of the fact that one of the referees was also a witness at the original hearing. As an objection this is wholly untenable. *Garth's Guardian v. Thompson*, supra; *Hellier v. Syck*, supra. This fact was known when he was appointed, and no objection was made at the time. Moreover, all of the referees were men

of unquestioned standing, and all testified that they were not influenced by the court's decree in reaching the conclusion that the property should be divided.

The decree is affirmed.

MORRIS, FULLERTON, MAIN, and
CHADWICK, JJ., concur.

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 APR 11 P 3:14

CLERK OF COURT

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

) Case No: CV11-0835

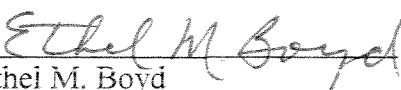
)
) **AFFIDAVIT OF ETHEL M. BOYD IN**
) **SUPPORT OF DEFENDANT/**
) **COUNTERCLAIMANT'S MOTION TO**
) **CONTINUE TRIAL**

AFFIDAVIT OF ETHEL M. BOYD

I, ETHEL M. BOYD, being first duly sworn on oath depose and state that:

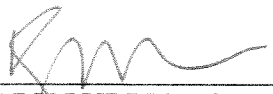
1. I am over the age of eighteen (18) and am competent to testify to these matters.
2. I am the Personal Representative of the Estate of Edith Clark (the "Estate").
3. In my capacity as the Personal Representative of the Estate of Edith Clark, I filed a lawsuit in Spokane County, State of Washington on May 19, 2010 against Mary Pandrea. Among the claims of the lawsuit was that Mary Pandrea had breached her fiduciary duty as attorney-in-fact of Edith Clark.
4. On March 16, 2012, a hearing on the Estate's motion for partial summary judgment was held in the courtroom of the Honorable Gregory Sypolt in Spokane County Superior Court. The court granted the Estate's motion for partial summary judgment, finding that Mary Pandrea had breached her fiduciary duty when she took a gift of \$100,000 from Edith Clark in 2002.
5. At the time I executed this affidavit, trial on remaining issues not determined by the motion for summary judgment is in session. Trial began on April 9, 2012. My attorney has advised me that the trial should last two or three days.
6. The Estate is requesting that it be awarded pre-judgment interest on the \$100,000 awarded to it. The Estate is also requesting that the Court award the Estate its attorney's fees and costs incurred in bringing the lawsuit against Mary Pandrea.
7. Once the Court makes its final determination on the matters remaining to be decided and a judgment is entered by the Court, as Personal Representative, I plan to immediately begin the process of obtaining a sister state judgment in Idaho. When that process is complete, I plan to immediately record the judgment against the real property jointly owned by Mary Pandrea and Kari Clark located on Upper Pack River Road, Sandpoint, Idaho. I expect that the judgment will be recorded in Bonner County, Idaho by the end of April 2012.

DATED this 11 day of April 2012.

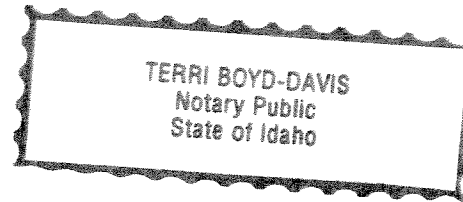

Ethel M. Boyd

AFFIDAVIT OF ETHEL M. BOYD

Subscribed and Sworn to me
this 17th day of April 2012



NOTARY PUBLIC FOR IDAHO
Residing at: Hayden, Idaho
My Commission Expires: 8-10-2015

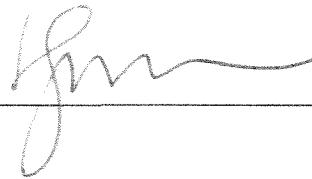


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of April 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

**AFFIDAVIT OF ETHEL M. BOYD IN SUPPORT OF
DEFENDANT/COUNTERCLAIMANT'S MOTION TO CONTINUE TRIAL**

Douglas S. Marfice Theron DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
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STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 APR 11 P 3:14

CLERK OF DISTRICT COURT
DEPUTY

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

Case No: CV11-0835

**AFFIDAVIT OF KARI A. CLARK IN
SUPPORT OF DEFENDANT/
COUNTERCLAIMANT'S MOTION TO
CONTINUE TRIAL**

AFFIDAVIT OF KARI A. CLARK

I, KARI A. CLARK, being first duly sworn on oath depose and state that:

1. I am over the age of eighteen (18) and am competent to testify to these matters.

2. I am the Defendant/Counter Claimant in this matter. I am the Trustee of the Kari A. Clark Trust U/A dated June 21, 2010.

3. The Plaintiff, Mary Pandrea ("Mary"), and I are sisters. We jointly own the real property at issue in this matter ("The Property"). The Property consists of two separate legal parcels of rural property in Bonner County. One parcel is approximately five acres and the other parcel is approximately 15 acres. The five-acre parcel was acquired by Mary in the early 1980s. Mary deeded an undivided one-half interest in the property to me shortly after she acquired it. The 15-acre parcel was acquired by me in the early 1990s, and I deeded an undivided one-half interest in the property to Mary shortly thereafter. These two parcels contain the family farm, old log home and log outbuildings that were built by our father. It is the land where we grew up in the 1940s and 1950s. We were able to purchase these parcels that are a part of the old family farm after our father died and the properties were then owned by our parents' trust.

4. I have a great attachment and loving regard for The Property due to the fact that it is where I spent my childhood and because it contains the old log buildings built by my father whom I adored. It is a very special place to me where I have always been able to find solace and peace there not only because of the long family history associated with The Property but also because its setting is so serene along the Pack River and it is surrounded by abundant natural beauty. The Property is irreplaceable to me. Its value to me is not in its monetary worth. It is much greater than that. It is the only place on this earth to which I have such a strong attachment. Because The Property consists of approximately 20 acres and because the two parcels that make up The Property remain separate legal parcels that were originally held separately by Mary and me, it is possible to partition the property in kind and I believe the Court should not order the property sold. The Court should divide The Property in kind and return the parcels to Mary and me as they were originally held by us.

5. I am a single woman. I am 71 years old and my income is very limited. Paying my legal fees in this matter has been a struggle for me. I understand that if this matter must go to trial that the costs will increase quite a bit. I am not sure I will be able to find the financial resources to pay my legal fees if this matter goes to trial but I will do all I can to try to find a way because it is so very important to me to defend my right to keep this property that is so dear to me. The legal costs I have incurred have stretched my financial resources to an extent that I am having difficulties paying for my everyday necessary living expenses.

6. My sister, Mary Pandrea was sued in 2010 by the Estate of Edith Clark. Edith Clark is mine and Mary's mother. Because that lawsuit concerns my mother's estate, I have been kept informed about its progress. I am aware that the court in that matter granted the Estate's summary judgment motion and ordered Mary to pay the estate \$100,000 for breaching her fiduciary duty. Trial on remaining issues in that case is happening this week. At the time of executing this affidavit, trial is in session.

7. The Personal Representative of the Estate of Edith Clark informed me that the Estate will record any judgment it obtains against Mary's interest in The Property. I understand this will likely be recorded prior to the trial date in this matter of May 30, 2012. I believe that could impact not only Mary's desire that the Court could order a sale of the property because it is likely the judgment would be greater than Mary's pecuniary interest in The Property, making it so Mary would then receive nothing from the sale, but I believe this could also be a factor this Court would consider as to whether to partition the property by sale or in kind.

8. I have not been involved in a lawsuit before my sister, Mary, sued me in this matter. When I was served with the complaint and needed an attorney, the only Idaho attorney I knew was Shirley Bade because I had previously hired her to revoke a trust and assist me with removing liens Mary had placed on The Property. I asked Ms. Bade to assist me in defending this lawsuit when I was served with the complaint and then received a letter from Mary's attorney threatening to take my default. A true and correct copy of the letter from Mary's attorney is attached hereto as **Exhibit "A."**

AFFIDAVIT OF KARI A. CLARK

9. I know that my attorney's legal practice is limited exclusively to business, estate planning, and mediation services. My attorney agreed to assist me in filing an answer to the complaint to avoid a default and to also assist me in attempting to resolve the matter in good faith through mediation. I understood that if the matter did not settle that I would need to retain a litigation attorney to represent me in the trial of the matter.

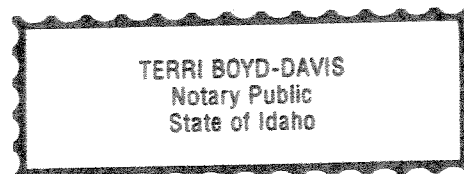
10. We engaged in mediation and continued to attempt to settle this matter after mediation but were unable to settle the matter. Since it appears that this matter will go to trial, I have been seeking an attorney to represent me in trying the case. I live in Oregon and do not have knowledge about attorneys who can help me but my niece who is a paralegal in Coeur d'Alene, Idaho has been assisting me by searching for suitable attorneys. I have not yet retained an attorney because I need to raise more money to cover the retainer required by an attorney. I am continuing to seek a skilled attorney.

DATED this 11th day of April 2012.

Kari A. Clark
Kari A. Clark

Subscribed and Sworn to me
this 11th day of April 2012

[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at: Hayden, Idaho
My Commission Expires: 8-10-2015

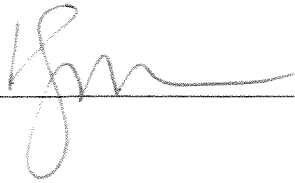


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of April 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

**AFFIDAVIT OF KARI A. CLARK IN SUPPORT OF
DEFENDANT/COUNTERCLAIMANT'S MOTION TO CONTINUE TRIAL**

Douglas S. Marfice Theron DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile: 208-664-5884
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RAMSDEN & LYONS, LLP

ATTORNEYS AT LAW

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MARC A. LYONS*

DOUGLAS S. MARFICE*

MICHAEL A. DALY*

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700 NORTHWEST BLVD.

COEUR D'ALENE, ID 83814

ALL ATTORNEYS LICENSED IN IDAHO

* LICENSED IN WASHINGTON

June 21, 2011

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

Re: *Mary E. Pandrea v. Kari A. Clark*
Bonner Co. Case No. CV-11-835

Dear Ms. Clark:

I am writing in regard to the Notice of Appearance filed on June 20, 2011. In that Notice you appear *pro se* (on behalf of yourself individually) and on behalf of the Kari A. Clark Trust U/A Dated June 21, 2010. Only a licensed attorney may appear on behalf of and represent a Trust in legal proceedings. *See, Indian Springs LLC v. Indian Springs Land Inv., LLC*, 147 Idaho 737, 215 P.3d 457 (2009).

You are not an attorney licensed to practice law in the State of Idaho. Therefore, you cannot provide legal representation for the Kari A. Clark Trust U/A Dated June 21, 2010 in this proceeding. As a result, I do not recognize the above as a Notice of Appearance on behalf of the Kari A. Clark Trust U/A Dated June 21, 2010.

Notice of Appearance and an Answer to the Complaint were due today, June 21, 2011. In regards to the Kari A. Clark Trust, I have not received either a valid Notice of Appearance or an Answer. Please consider this notice that on June 29, 2011, I plan to move for Entry of Default against the Kari A. Clark Trust.

In regards to you individually, I have not received an Answer to the Complaint. Please find the enclosed Notice of Intent to Take Default.

If you have any questions please feel free to contact me.

Yours very truly,


Theron J. DeSmet

TJD/sj
Enclosure

EXHIBIT "A"

Description BONNER CV 11-835 Pandrea vs. Clark 20120424 Motion to Continue Trial Judge John Patrick Luster Clerk Kathy Booth Court Reporter Valerie Nunemacher PA Mr. Desmet DA Ms. Bade		
Date	4/25/2012	Location 1K-COURTROOM1
Time	Speaker	Note
04:07:10 PM	J	Calls case - PA DeSmet present with client, DA Bade present for defense. I don't have the notice or any other pleadings for this hearing.
04:08:01 PM	DA	I thought we had provided them within the last few days
04:08:35 PM	J	We can proceed
04:08:40 PM	DA	<p>We ask for a continuance - Spokane County proceeding has been decided with judgment against PI of \$100,000 for breach of fiduciary duties in her mother's estate and a hearing shortly as to fees and costs. There will be a judgment entered shortly of \$165,000 to \$200,000. Describes property. The underlying value of the property per appraisal is \$165,000 approximately. For her to continue this law suit is futile. If she sells them she gains nothing at all.</p> <p>I ordinarily don't represent people involved in real estate issues. I do estate planning and LLC work primarily. I did do work for Clark about the time this suit was brought. I agreed to represent her to the point that I felt it was in her best interests to have someone more knowledgeable in this area. We're at that point and she's retained the funds to hire one but has not told me who that is.</p>
04:11:26 PM	PA	I don't believe there is good cause to continue. The foreign litigation has no relevance to this issue. The Spokane judgment is only against my client. There has been a motion to reconsider and an appeal if the reconsideration is not granted. Since October 2011 the parties knew the matter would proceed to trial and DA has had ample time to withdraw and get other counsel. There has been extensive discovery and trial preparation and the case should proceed to trial. This is a family feud over the use of property. Just recently there was an altercation at the property that resulted in law enforcement being called to defuse the situation. It's in the best interests to deny the motion and proceed to trial.
04:15:40 PM	DA	We will get you copies of every one of the affidavits. It's futile to spend more money preparing for trial when the results in PI's

0160

		favor is at risk. My client is extraordinarily poor and she wishes to get this resolved prior to trial.
<u>04:16:31 PM</u>	J	Comments - the court has to conclude that there is a good basis to grant the continuance. I don't know that collateral liability is a basis to not allow another case to proceed to completion absent a bankruptcy stay or other method to keep the case from proceeding forward. I don't know that I can conclude that DA's reluctance to proceed and represent her client as a good reason. I don't have a motion to withdraw before me but just a motion to continue trial DENY MOTION TO CONTINUE. PA to prepare order.
<u>04:19:20 PM</u>	DA	We have asked for keys and they have never been delivered to us - can we take that up now?
<u>04:19:35 PM</u>	PA	If she'd like to file a motion we can take that up.
<u>04:19:43 PM</u>	J	As I understand it this property is held in trust with the sisters as co-trustees. I cannot grant an order without proper motion before the court.
<u>04:20:10 PM</u>		
<u>04:20:10 PM</u>	End	

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0161

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
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Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 MAY -1 A 11:35

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, w/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835


**ORDER DENYING DEFENDANT'S
MOTION TO CONTINUE TRIAL**



The above matter having come before the Court on Defendant/Counterclaimant's Motion to Continue Trial, and the Court having considered the documents on file, the argument of counsel and grounds presented;

IT IS HEREBY ORDERED that Defendant/Counterclaimant's Motion to Continue Trial is hereby DENIED, the previously set trial date of May 30, 2012 shall remain unchanged and all requirements of the Court's Scheduling Order remain in effect.

DATED this 1st day of ~~April~~ ^{May}, 2012.


The Honorable John P. Luster
District Court Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of ~~April~~ ^{May}, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 665-4621

Karl Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Theron J. De Smet
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 664-5884


Deputy Clerk

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 MAY -4 A 9:18

MAHIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Shirley Bade, Bar No. 3848
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Avenue,
Coeur d'Alene, ID 83814
Phone: 208-665-1335
Fax: 208-665-4621

*Attorney for Defendant/Counterclaimant Kari A. Clark
as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010;

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002 and as Trustee of the Kari
A. Clark Trust u/a June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002,

Counter Defendant.

) Case No: CV11-0835

)
) **NOTICE OF DEPOSITION OF**
) **PLAINTIFF/COUNTER DEFENDANT**
) **MARY E. PANDREA**

)
)
) **DATE:** May 9, 2012
) **TIME:** 9:00 a.m.
) **PLACE:** Shirley Bade Law Firm
) 418 E. Coeur d'Alene Ave.
) Coeur d'Alene, ID 83814

NOTICE OF DEPOSITION OF MARY E. PANDREA

PLEASE TAKE NOTICE that Defendant/Counter Claimant KARI A. CLARK, will take the testimony, on oral examination of MARY E. PANDREA before a Certified Court Reporter at 9:00 a.m. on May 9, 2012, at the offices of Shirley Bade Law Firm, P.C. 418 E. Coeur d'Alene Avenue, Coeur d'Alene, Idaho, 83814.

The deposition will commence at the above-identified time and shall continue from day to day until the taking of the deposition may be adjourned.

DATED this 4th day of May 2012.



Shirley Bade

*Attorney for Defendant/Counterclaimant Kari A.
Clark as Trustee of the Kari A. Clark Trust U/A
dated June 21, 2010*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of May 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

**NOTICE OF DEPOSITION OF
PLAINTIFF/COUNTER DEFENDANT MARY E. PANDREA**

Douglas S. Marfice	<input type="checkbox"/>	U.S. Mail, Postage Prepaid
Theron DeSmet	<input type="checkbox"/>	Hand Delivered
Ramsden & Lyons, LLP	<input type="checkbox"/>	Overnight Mail
P.O. Box 1336	<input checked="" type="checkbox"/>	Facsimile: 208-664-5884
Coeur d'Alene, ID 83816-1336		
Phone: 208-664-5818		
Fax: 208-664-5884		
<i>Attorney for Plaintiff/Counter Defendant</i>		

Mary E. Pandrea

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 MAY -9 A 10:21
MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**NOTICE OF SERVICE OF
DISCOVERY RESPONSES**

TO: CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN that on the 8th day of May, 2012, that Plaintiff, by and through her attorney, Theron J. De Smet of the firm Ramsden & Lyons, LLP did serve a true and correct copy of Plaintiff's *First Supplemental* Answers and Responses to Defendant's Interrogatories and Production of Documents Set One, together with a copy of this Notice, upon counsel for Defendant by depositing the same in the United States Mail, Coeur d'Alene, Idaho, postage pre-paid.

DATED this 8th day of May, 2012.

RAMSDEN & LYONS, LLP

By: 

Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.
2012 MAY -9 A 10:23
PAUL SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant:

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

NOTICE OF COMPLIANCE

NOTICE IS HEREBY GIVEN, pursuant to the Court's Uniform Pretrial Order entered in this matter on November 2, 2011, that Plaintiff/Counter Defendant Mary Pandrea, by and through her attorneys of record, Ramsden & Lyons, LLP, served her *Second Supplemental* Expert Witness Disclosure.

DATED this 8th day of May, 2012.

RAMSDEN & LYONS, LLP

By:


Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

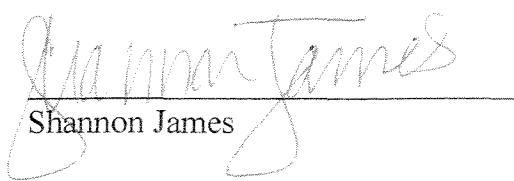
I hereby certify that on the 8th day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Shirley Bade
Shirley Bade Law Firm, P.C.
418 E. Coeur d'Alene Ave.
Coeur d'Alene, ID 83814

☐ US Mail
☐ Overnight Mail
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☒ Facsimile (208) 665-4621

Kari Clark
204 Johnson St.
Sutherlin, OR 97479

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

Shirley Bade, Bar No. 3848
 Shirley Bade Law Firm, P.C.
 418 E. Coeur d'Alene Avenue,
 Coeur d'Alene, ID 83814
 Phone: 208-665-1335
 Fax: 208-665-4621
*Attorney for Defendant/Counterclaimant Kari A. Clark
 as Trustee of the Kari A. Clark Trust U/A dated June 21, 2010*

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2012 MAY -9 P 3:52

DAVE SCOTT
 CLERK DISTRICT COURT
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

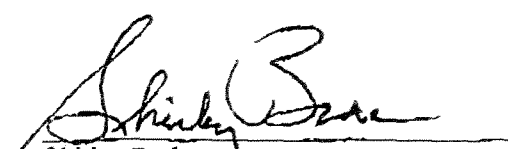
MARY E. PANDREA, a single woman,	)	Case No: CV11-0835
)	
Plaintiff,	)	STIPULATION FOR ENLARGEMENT
	)	OF TIME TO TAKE DEPOSITIONS OF
vs.	)	PARTIES AND WITNESSES
)	
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark Trust U/A Dated June 21, 2010;)	
)	
Defendant.)	
)	
KARI A. CLARK, a single woman)	
individually and as Trustee of the Kari A.)	
Clark and Mary E. Pandrea Revocable Trust,)	
u/a April 9, 2002 and as Trustee of the Kari)	
A. Clark Trust u/a June 21, 2010,)	
)	
Counterclaimant,)	
)	
Vs.)	
)	
MARY E. PANDREA, a single woman)	
individually and as Trustee of the Kari A.)	
Clark and Mary E. Pandrea Revocable Trust,)	
u/a April 9, 2002,)	
)	
Counter Defendant.)	

STIPULATION FOR ENLARGEMENT OF TIME TO TAKE DEPOSITIONS

Come now the parties to this action, Plaintiff MARY E. PANDREA, by and through her counsel, Theron DeSmet, and Defendant KARI A. CLARK, by and through her counsel, Shirley Bade, to inform the court of a stipulation related to discovery procedures.

Pursuant to the Court's Pretrial Order, the deadline for the taking of depositions is 21 days before trial, which is May 9, 2012. Pursuant to I.R.C.P. 6(b), the parties hereby stipulate to a vacation of this deadline imposed for the taking of depositions of parties and witnesses. Parties further agree that all depositions shall be completed no later than May 21, 2012.

The Parties also agree that this Stipulation shall not, in any event, be construed to alter or effect the currently scheduled trial date.

Date: May 9, 2012Date: May 9, 2012
Theron DeSmet
Attorney for Plaintiff Mary E. Pandrea
Shirley Bade
Attorney for Defendant/Counterclaimant Karl A.
Clark as Trustee of the Karl A. Clark Trust U/A
dated June 21, 2010

STIPULATION FOR ENLARGEMENT OF TIME TO TAKE DEPOSITIONS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of May 2012, I caused to be served in the following manner a true and correct copy of the foregoing:

STIPULATION FOR ENLARGEMENT OF TIME TO
TAKE DEPOSITIONS OF PARTIES AND WITNESSES

Douglas S. Marfice Theron DeSmet Ramsden & Lyons, LLP P.O. Box 1336 Coeur d'Alene, ID 83816-1336 Phone: 208-664-5818 Fax: 208-664-5884 <i>Attorney for Plaintiff/Counter Defendant</i>	<input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile: 208-664-5884
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Mary Cameron

STIPULATION FOR ENLARGEMENT OF TIME TO TAKE DEPOSITIONS

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

PLAINTIFF'S WITNESS LIST

COMES NOW Plaintiff, Mary E. Pandrea, pursuant to the Court's Pretrial Order, and discloses the following lay and expert witnesses who may be called at the trial of the above matter:

Lay Witnesses:

1. Mary E. Pandrea
2. Debbie Gadbow
3. John Pandrea

Expert Witnesses:

1. Suzanne Metzger
2. Cary M. Vogel
3. Harold E. Carter
4. Jeff Bond
5. Alison Murphy

DATED this 16th day of May, 2012.

RAMSDEN & LYONS, LLP

By: 

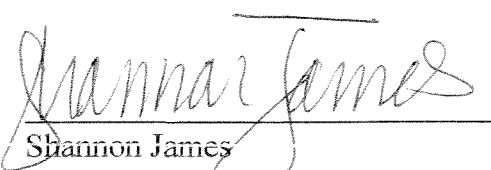
Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile (208) 665-4621


Shannon James

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
County of Bonner
FILED MAY 17 2012 ss
AT 10:25 O'CLOCK A M
CLERK, DISTRICT COURT
Deputy [Signature]

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

PLAINTIFF'S EXHIBIT LIST

COMES NOW Plaintiff, Mary E. Pandrea, and submits the attached Exhibit List identifying the Plaintiff's proposed trial exhibits.

Plaintiff reserves the right to supplement and amend this Exhibit List prior to trial.

DATED this 16th day of May, 2012.

RAMSDEN & LYONS, LLP

By: 

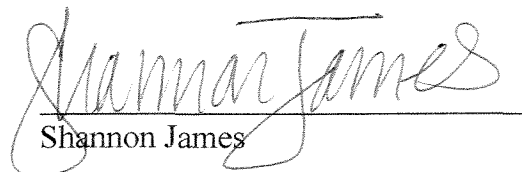
Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile (208) 665-4621


Shannon James

PLAINTIFF'S EXHIBIT LIST

Case No: **CV-11-835**

Trial Date: **May 30, 2012**

Title of Case: ***Pandrea v. Clark***

 X PLAINTIFF'S EXHIBITS (list numerically)

 DEFENDANT'S EXHIBITS (list alphabetically)

No.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
	PLAINTIFF'S EXHIBITS					
1	Appraisal Report-Carter					
2	Appraisal Report-Vogel					
3	Comparative Market Analysis					
4	Calculation-Cost of Appraisals and CMA					
5	Receipts Payment-Appraisals and CMA					
6	Calculation-Taxes 20 Acres (1996-2011)					
7	Receipts for Taxes 20 Acres					
8	Calculation-Taxes 5 Acres (1996-2009)					
9	Receipts for Taxes 5 Acres					
10	Calculation-Life Insurance Payment					
11	Receipts-Life Insurance Payment					
12	Calculation-Well Drilling					
13	Receipts-Well Drilling					
14	Calculation- Log House Renovation					
15	Receipts/Documentation-Log House Renovation					
16	Calculation-Tree Farm Expenses					
17	Receipts/Documentation-Tree Farm Expenses					
18	Bill/Payments-Tucker Brown & Vermeer, LLC (Engineering)					
19	Bill/Statement-Miller & Associates					
20	Calculation-Legal Expenses (Trespass)					

No.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
21	Bill/Payments-Legal Expenses (Trespass)					
22	Letter and related documents to Clark (12/21/10)					
23	Letter, related documents, and earnest money check to Clark (2/12/2011)					
24	Topographic Map of Property					
25	Satellite Picture of Property					
26	Satellite Picture of Property with Property Boundaries					
27	Survey Drawing of Property					
28	Photographs of Old Log House and Renovations					
29	Photographs of Bridge Accessing Property (~1990 and ~2011)					
30	General Photographs of Property					
31	Expert Opinion-Suzanne Metzger					
32	Expert Report-Calculated Expenses					
33	Pandrea/Clark Trust Agreement					
34	Plat Map – 7/3/1979					
35	Warranty Deed-Bank of Idaho to Pandrea-3/27/1980 (Instrument #226223)					
36	Warranty Deed-First Interstate Bank to Clark-10/17/1991 (Instrument #396781)					
37	Quitclaim Deed-Pandrea ½ Undivided Interest to Clark-2/16/81 (Instrument #240369)					
38	Quitclaim Deed-Clark ½ Undivided Interest to Pandrea-11/24/92 (Instrument #416380)					
39	Warranty Deed-Clark to Trust-3/9/2002 (Instrument #600363)					
40	Warranty Deed-Clark/Pandrea to Trust-3/9/2002 (Instrument #600364)					
41	Warranty Deed-Clark/Pandrea to Trust-3/9/2002 (Instrument #600365)					
42	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795211)					

NO.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
43	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795213)					
44	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795212)					
45	Correction to Quitclaim Deed-Trust to Clark/Pandrea 8/5/2011 (Instrument #813590)					
46	Letter Clark to Pandrea re: Tree Farm 11/5/2002					

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

FILED
CLERK OF DISTRICT COURT
DISTRICT OF IDAHO
2011 JUL 16 AM 9:28
CLERK OF DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**PLAINTIFF'S SUPPLEMENTAL
EXHIBIT LIST**

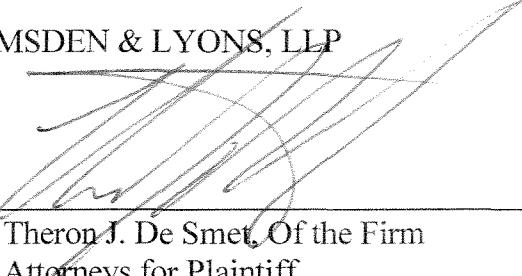
COMES NOW Plaintiff, Mary E. Pandrea, and submits the attached Exhibit List identifying the Plaintiff's proposed trial exhibits.

Plaintiff reserves the right to supplement and amend this Exhibit List prior to trial.

DATED this 17th day of May, 2012.

RAMSDEN & LYONS, LLP

By:

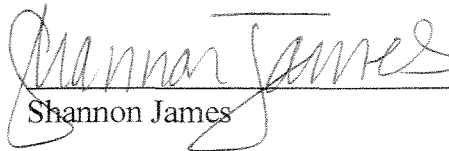

Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile (208) 665-4621


Shannon James

PLAINTIFF'S EXHIBIT LIST

SUPPLEMENTAL

Case No: **CV-11-835**

Trial Date: **May 30, 2012**

Title of Case: ***Pandrea v. Clark***

 X PLAINTIFF'S EXHIBITS (list numerically)

 DEFENDANT'S EXHIBITS (list alphabetically)

NO.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
	PLAINTIFF'S EXHIBITS					
1	Appraisal Report-Carter					
2	Appraisal Report-Vogel					
3	Comparative Market Analysis					
4	Calculation-Cost of Appraisals and CMA					
5	Receipts Payment-Appraisals and CMA					
6	Calculation-Taxes 20 Acres (1996-2011)					
7	Receipts for Taxes 20 Acres					
8	Calculation-Taxes 5 Acres (1996-2009)					
9	Receipts for Taxes 5 Acres					
10	Calculation-Life Insurance Payment					
11	Receipts-Life Insurance Payment					
12	Calculation-Well Drilling					
13	Receipts-Well Drilling					
14	Calculation- Log House Renovation					
15	Receipts/Documentation-Log House Renovation					
16	Calculation-Tree Farm Expenses					
17	Receipts/Documentation-Tree Farm Expenses					
18	Bill/Payments-Tucker Brown & Vermeer, LLC (Engineering)					
19	Bill/Statement-Miller & Associates					
20	Calculation-Legal Expenses (Trespass)					

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22	Letter and related documents to Clark (12/21/10)					
23	Letter, related documents, and earnest money check to Clark (2/12/2011)					
24	Topographic Map of Property					
25	Satellite Picture of Property					
26	Satellite Picture of Property with Property Boundaries					
27	Survey Drawing of Property					
28	Photographs of Old Log House and Renovations					
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30	General Photographs of Property					
31	Expert Opinion-Suzanne Metzger					
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33	Pandrea/Clark Trust Agreement					
34	Plat Map – 7/3/1979					
35	Warranty Deed-Bank of Idaho to Pandrea-3/27/1980 (Instrument #226223)					
36	Warranty Deed-First Interstate Bank to Clark-10/17/1991 (Instrument #396781)					
37	Quitclaim Deed-Pandrea ½ Undivided Interest to Clark-2/16/81 (Instrument #240369)					
38	Quitclaim Deed-Clark ½ Undivided Interest to Pandrea-11/24/92 (Instrument #416380)					
39	Warranty Deed-Clark to Trust-3/9/2002 (Instrument #600363)					
40	Warranty Deed-Clark/Pandrea to Trust-3/9/2002 (Instrument #600364)					
41	Warranty Deed-Clark/Pandrea to Trust-3/9/2002 (Instrument #600365)					
42	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795211)					

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43	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795213)					
44	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795212)					
45	Correction to Quitclaim Deed-Trust to Clark/Pandrea 8/5/2011 (Instrument #813590)					
46	Letter Clark to Pandrea re: Tree Farm 11/5/2002					
47	Easement-10/24/1975					
48	Letter Clark to Pandrea 9/23/1990					
49	Clark Account Statement-WSECU					
50	Pandrea Account Statement-WSECU					

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

2012 MAY 22 A 10:28
CLERK OF DISTRICT COURT
FIRST JUDICIAL DIST.

2012 MAY 22 A 10:28

CLERK OF DISTRICT COURT
FIRST JUDICIAL DIST.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

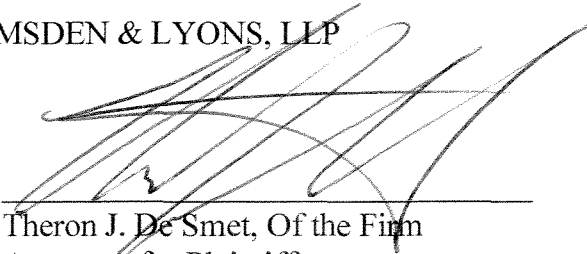
**PLAINTIFF'S SECOND
SUPPLEMENTAL EXHIBIT LIST**

COMES NOW Plaintiff, Mary E. Pandrea, and submits the attached Second Supplemental Exhibit List identifying the Plaintiff's proposed trial exhibits.

Plaintiff reserves the right to supplement and amend this Exhibit List prior to trial.

DATED this 21st day of May, 2012.

RAMSDEN & LYONS, LLP


By: 
Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
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Shannon James

PLAINTIFF'S EXHIBIT LIST

2nd SUPPLEMENTAL

Case No: **CV-11-835**

Trial Date: **May 30, 2012**

Title of Case: ***Pandrea v. Clark***

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Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 MAY 24 P 2:33

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
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Counterclaimant,

Vs.

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individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

PLAINTIFF'S TRIAL BRIEF

COMES NOW Plaintiff/Counter Defendant, Mary E. Pandrea, by and through her counsel of record and submits her Trial Brief.

INTRODUCTION

This is a family dispute between two sisters,¹ over 20 acres of Pack River property the sisters have held in common ownership for over 20 years. They can no longer own the property jointly and ask the Court to partition the property and order the parties to account for their respective contributions to the value of the property.

STATEMENT OF FACTS

1. On March 27, 1980, Mary Pandrea purchased approximately 5 acres of property situated on the Pack River in Bonner County from the estate of her parents. The 5 acre parcel included a log cabin, out buildings and other minor improvements. On February 16, 1981, Mary quitclaimed a one-half undivided interest in the property to her sister Kari Clark, Defendant.

2. Around 1991, Mary paid off approximately \$9,000.00 of Kari's debts to enable Kari to purchase approximately 15 acres of property situated on the Pack River adjacent to the 5 acres Mary had previously purchased. On October 17, 1991, Kari purchased the 15 acre parcel, and on November 24, 1992, she quitclaimed a one-half undivided interest in the 15 acres to Mary.

3. On May 7, 1991, Kari also acquired by gift/inheritance another 5.3 acre parcel of property contiguous to the above 15 acre parcel. Kari holds the 5.3 acres as her sole property.

4. The 5 acre parcel and 15 acre parcel (actually ~20.6 acres total) ("the Property") are jointly owned by Kari and Mary and are the subject of this action.

¹ Plaintiff and Defendant are two of eight biological siblings. As noted hereinafter, there is profound discord between two "Camps" of these siblings. Defendant Kari Clark is aligned with sister's Ethyl, Gene and Wilma. Other litigation has occurred or is pending by and between the siblings over issues not germane to this action.

5. On April 9, 2002, Mary and Kari created the "Kari A. Clark and Mary E. Pandrea Revocable Trust" ("Clark/Pandrea Trust"), of which Mary and Kari were co-trustees. They transferred their undivided one-half interests in the Property into the Clark/Pandrea Trust. Kari also transferred her 5.3 acres into the Trust.

6. Since 1992, Mary has contributed in excess of \$36,890.44 to maintain and improve the Property. This includes an ongoing renovation of the log cabin, installing a well, replacing a bridge, planting a tree farm and securing related property tax exemptions. Mary also paid most of the property taxes assessed.

7. Kari was aware that Mary was maintaining and improving the Property, and either agreed to Mary's contributions or acquiesced them, with the understanding that Mary would be reimbursed.

8. Kari has only documented total contributions of \$312.66 to the Property.

9. Around July of 2010, Kari dissolved the Clark/Pandrea Trust by deeding the Property out of the Trust. According to the terms of the Clark/Pandrea Trust, upon dissolution of the Trust, title to the properties held in the Clark/Pandrea Trust is to revert to the manner that the properties were held when conveyed into the Clark/Pandrea Trust.

10. Kari conveyed undivided title in the 5.3 acre parcel of property to her own trust, the Kari A. Clark Trust.

11. Kari conveyed a one-half undivided interest in the 5 acre parcel to the Kari A. Clark Trust, and a one-half undivided interest to Mary.

12. Kari improperly conveyed to the Kai A. Clark Trust, a 100% interest in the 15 acre parcel.

13. After August 5, 2011, on Mary's protest, Kari executed a "Correction of Quitclaim Deed" correcting the improper conveyance and conveying a one-half undivided interest in the 15 acres to Kari, by the Kari A. Clark Trust and a one-half undivided interest to Mary.

LEGAL POSITION

The parties each hold a one-half undivided interest in the approximate 20 acres of Property, as tenants in common. The parties can no longer hold the Property as tenants in common because, among other reasons, their extended the families are in conflict that is irreconcilable. Further, the parties' interests and plans for the Property are now too divergent to be practicable without the involvement of this Court. As a result, this is an action to partition the Property. This Court has the option to partition the Property in kind (physically) or by sale with allocation of the proceeds of the sale to the parties. *I.C. § 6-501; Cox v. Cox*, 138 Idaho 881, 886, 71 P.3d 1028, 1033 (2003)

Regardless of the type of partition this Court employs, the parties are entitled to be reimbursed for their contribution to the Property while it was held in common. Thus, Mary seeks an accounting and credit for one half of the expenses incurred to maintain and improve the jointly owned property. Over the years, Mary has made significant contributions to the Property in the form of improvements, maintenance and payment of taxes. Kari expressly or impliedly agreed to the improvements, maintenance and payments made by Mary. Mary is entitled to half her contribution from Kari. *See, BahnMiller v. BahnMiller*, 145 Idaho 517, 521, 181 P.3d 443, 447 (2008); (*holding if a cotenant has "authority by agreement or otherwise to improve property at the expense of the cotenants therein, then the cotenant so improving will be entitled to contribution from his cotenants if he act prudently and in good faith."*) (citation omitted); and

(holding "[a] tenant in common is held to be entitled to contribution for expenditures absolutely necessary for the benefit and preservation of common property.") (citation omitted).

The testimony will show Mary has contributed approximately \$36,890.44 to the Property, compared to \$312.66 contributed by Kari. At a minimum, Mary is entitled to \$18,288.89 in reimbursement from Kari and interest thereon. *Bahnmler* at 449, 523.

CONCLUSION

For the foregoing reasons the Property must be partitioned and Mary is entitled to an equitable award of money commensurate with the proof at trial representing Mary's past financial contributions to the property.

DATED this 24th day of May, 2012.

RAMSDEN & LYONS, LLP

By: 

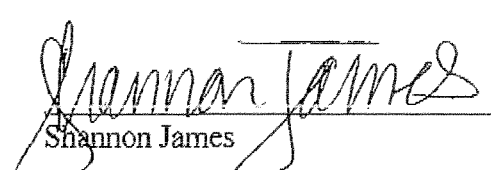
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Shannon James

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA,
Plaintiff / Appellant,

v.

KENNETH BARRETT and
DEANNA L. BARRETT
Defendant / Respondent.

SUPREME COURT NO. 42333-2014
BONNER COUNTY CASE CV2011-0835

CLERK'S CERTIFICATE OF SERVICE

I, R. Ann Dutson-Sater, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do hereby certify that I have personally served or mailed, by U.S. Postal Service, one copy of the CLERK'S RECORD to each of the Attorneys of Record in this cause as follows:

MARY E. PANDREA
PRO SE
4687 UPPER PACK RIVER ROAD
SANDPOINT, ID 83864
ATTORNEY FOR APPELLANT

RICHARD K. KUCK
ATTORNEY AT LAW
P.O. BOX 1320
COEUR D'ALENE, ID 83815
ATTORNEY FOR RESPONDENT

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal
of the said Court this 24th day of December, 2014.

26th

R. Ann Dutson-Sater
Clerk of the District Court

Sarah Humrich
Deputy Clerk



Certificate of Service 1

196

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA,

Plaintiff / Appellant,

v.

KENNETH BARRETT and
DEANNA L. BARRETT

Defendant / Respondent.

SUPREME COURT NO. 42333-2014
BONNER COUNTY CASE CV2011-0835

CLERK'S CERTIFICATE

I, R. Ann Dutson-Sater, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do certify that the foregoing Record in this cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents requested by Appellant Rule 28.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 24th day of December, 2014.

26th

R. ANN DUTSON-SATER
Clerk of the District Court



Sara Lee Humrich
Deputy Clerk

Clerk's Certificate 1

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARY E. PANDREA,)	
)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
)	
v.	)	CLERK'S CERTIFICATE OF EXHIBITS
)	
KENNETH BARRETT and)	
DEANNA L. BARRETT)	
)	
Defendant / Respondent.)	
_____)	

I, R. Ann Dutson-Sater, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do hereby certify that the following is offered as the Clerk's exhibit on appeal:

Defendant/Counterclaimant's Requests for Admissions, Answers to Interrogatories, and Production of documents to Plaintiff/Counter Defendant Mary E. Pandrea, Set One - filed November 14, 2011

Affidavit of Shirley Bade in Support of Defendant/Counterclaimant's Motion to Continue Trial - filed April 11, 2012

Plaintiff's Post-Trial Brief - filed July 18, 2012
Defendant's Post-Trial Brief and Closing Argument - filed July 19, 2012

Affidavit of Mary e. Pandrea in Support of Plaintiff's Proposed Judgment - filed January 10, 2013

Plaintiff Mary Pandrea's Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting - filed March 5, 2013

Memorandum in Support of Plaintiff's Motion for Reconsideration of Trial Decision (Without Argument) - filed March 6, 2013

CLERK'S CERTIFICATE OF EXHIBITS 1

Plaintiff Mary Pandrea's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting - filed April 26, 2013

Memorandum in Support of Plaintiff's Refiled Motion for Reconsideration of Trial Decision (Without Argument) - filed April 26, 2013

Plaintiff Mary Pandrea's Second Amended Complaint and to Add Defendants [Proposal] - filed August 30, 2013

Coversheet Pandrea's Proposed Judgment and Decree of Partition (1) & (2) - filed January 21, 2014

Plaintiff's Response to Defendant's Motion to Disallow Attorney Fees and Costs to Pandrea - filed March 7, 2014

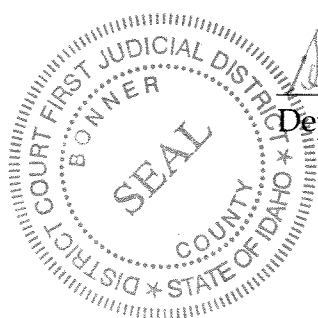
Plaintiff's Reply to Defendant's Response to Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification and Objection to Facts not on Record Included in Clark's Supporting Memorandum - filed April 30, 2014

Letter from Mary e. Pandrea to the Honorable John P. Luster Dated May 9, 2014 - filed May 9, 2014

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 24th day of December, 2014.

26th

R. ANN DUTSON-SATER
Clerk of the District Court



Saranne Humrich
Deputy Clerk

CLERK'S CERTIFICATE OF EXHIBITS 2